THE CONSTITUTIONAL AND POLITICAL HISTORY OF THE UNITED STATES.

BY

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TRANSLATED FROM THE GERMAN BY

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ANNEXATION OF TEXAS—COMPROMISE OF 1850.

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TRANSLATORS' NOTE.

The following extract is from the author's preface: "The third volume of the Constitutional History of the United States would have been in the hands of the public long ago if its preparation had not been interrupted for a whole year, from July, 1878 to July, 1879. The Government of the Duchy of Baden released me for that period from my duties as academic teacher and the Royal Prussian Academy of Sciences granted me a traveling allowance of 9,000 marks, to gather new material in the American libraries and obtain additional information by visiting the parts of the Union not yet known to me—the southern States, and the territory west of the Mississippi, as far as the Pacific Ocean.

"I could not better give expression to my feelings of gratefulness, than by wishing that the present volume might be judged by competent critics in a manner which will justify this extraordinary liberality. I may thank in the first place, Heinrich von Sybel, who nearly thirteen years ago gave it the primary incitement, that the work has been so munificently supported by the academy.

"The number of those who either directly or indirectly have assisted me in the attainment of my object—Germans, German-Americans and Americans, is so large that I cannot name them all. Hence, I prefer to mention no names at all, since it would greatly pain me if only one

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should harbor the ungrounded suspicion that I had forgotten his services. I assure all that I shall ever remain thankful for the assistance I received from them."

The translators desire to make their acknowledgments to Mr. Alfred Bishop Mason, of Chicago, for valuable assistance in the preparation of the present volume.

THE TRANSLATORS.

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ANNEXATION OF TEXAS:

COMPROMISE OF 1850

CHAPTER I.

James K. Polk and His Cabinet.

The descriptions which a certain class of Americans—the orators by profession who endeavor to conceal their poverty of thought under the cover of a cold and empty pathos—give of the intellectual life and of the feelings of the American people, no more resemble the reality than does a mountain landscape a Hungarian waste. Cothurn and mask are transferred to the stage on which this most modern of nations plays and lives its part; and the reality which, by its rational sobriety, always commands respect, appears there with distorted visage, the caricature of itself: since there the repulsive and ridiculous are seen striving with each other for the mastery.

"The sublimest spectacle on earth, a free people peaceably deciding by the ballot what citizen shall stand at the head of the state," which, in every day language, means a presidential election, does not excite the wonder and admiration of mankind; and the head that wears a crown does not bow down in respect before the holder of the "sublimest office on earth." The partisan press and the "stump-speakers" have, ever since the second presidential election, made use with too great pleasure, and to too

great an extent, of the vilest means, and of means of every description, to reach their ends; and they are responsible for the fact that no ideal halo, no glory surrounds the presidency. Besides so many of the presidents have worn as their only coat of arms the manufacturer's mark of the party "machine," that the rest of the world is sometimes tempted to estimate the dignity of the office too nearly in accordance with the worthiness of the person who holds it for the time being.

Americans have no reason to complain of this; for a presidential election excites no feelings of religious awe in themselves; and they themselves are least disposed to pay a becoming respect to the dignity of the presidential office. Engrossed by the business of every day life, the people take not the slightest notice of a change in the person who occupies the presidential chair: in Washington alone is the 4th of March in every fourth year a great day. Once only did the whole American people with breathless suspense watch the entry into office of the president elect—on the 4th of March, 1861. Except on this one occasion, the inaugural address, the programme of the new administration, has been taken up with a certain imperturbable calm and read by all with the conviction that the morrow would be sufficiently like the day before not to make it worth while to disturb their slumbers, however conclusively the arguments of either party during the electoral campaign had proved that, in the event of the victory of the other, the future of the republic could be nothing but a matter of fear and speculation. Four months intervene between the actual decision at the polls and the change of administration. If a revolution has been accomplished in the relations of parties, and even if there has been only a change of persons in the incumbent of the office of president, this period bears in certain

respects the character of an interregnum; and this is attended by many evils. But these are not to be estimated too highly, considering the great advantage attendant on the interregnum, that it affords time for the passions excited by the presidential campaign to subside. Both parties grow calm. With the victors, the feeling of responsibility, and the spirit of conservatism which, in the nature of things, is inseparable from power, obtain greater sway; while the defeated give evidence of the healthy strength of the national spirit, which always accommodates itself at once to accomplished facts with manly equanimity and self-confidence: they find consolation in the hope that after four years fortune may perhaps be more favorable to them. And when they cannot flatter themselves even with this hope, then that optimism so peculiar to the American, and which not unfrequently degenerates into almost thoughtless light-heartedness, no less than the desire of peace, have the tendency to let the white and the black, which seemed to stand in such bold contrast to each other before the election, fade into an indifferent gray. Hence it is that a new president may always expect to find on his entry into office the party opposed to him less hot-blooded and less bitterly malevolent than the speeches made during the electoral campaign promised.

Nor had Polk to complain in this respect. The Whigs had, as we have seen, reason, to a greater extent than usual, to feel embittered at their defeat. Spite of this, however, their flags waved side by side with those of the Democrats in Washington at the inauguration. A stranger might have thought that the whole nation was filled with festive joy. A cold and heavy rain marred the pleasure of those who had come to witness the spectacle, but there were no prophets of evil to declare it a bad omen. Had it been Clay who was to take the oath of office next day in

the capitol it may be that the dissatisfaction of the defeated ones would have cast darker shadows through the windows into the bright halls where hundreds were moving to the merry music of the dance at the inauguration ball. But any one who followed the joyful Democrats on their way home that night might have overheard many a whisper indicative of coming storms. The initiated might even now ask themselves whether the characteristic feature of the immediate future would not be that the source of these storms would be found in the camp of the victor. The Whigs might say to themselves that they could scarcely fare much worse with Polk than with Tyler, who had begun his presidential adventures under their standard. But the Democrats, even before they were in possession of the fruits of their victory, began to fear that they would not have long to enjoy their triumph, because the seeds of discord were being strewn in their ranks with a plentiful hand, and the sower was none other than the president elect himself.

In the second year of his administration (1830), Jackson had created for himself an organ of his own, the *Globe*, one which, in all his struggles, never failed to render him excellent service. Jackson valued these services to the fullest extent, and reckoned the publisher of the *Globe*, Fr. P. Blair, among his most intimate friends. As a matter of course, therefore, the *Globe* remained the organ of the administration under Van Buren also; for the latter, on his entry into office, had officially declared that he had no ambition beyond continuing the work of his great predecessor, and precisely in the spirit in which his predecessor conceived it. Harrison's victory swept the crutches of government support from under Blair's arms. The *Globe*, however, continued to exist, and Blair as well as Jackson supposed that the reëstablishment of Demo-

cratic rule would *ipso facto* restore the *Globe* to its old position. But the tidings of victory were followed on the heels by vague rumors that Polk did not seem minded to follow the prescriptions of the dying invalid of the "Hermitage," or to be guided by his dictation. As early as the 14th of December, 1844, Blair was informed by Jackson of a project which was on foot to allow him to remain, indeed, proprietor of the *Globe*, but to make Ritchie its publisher; that is, to put him aside, to make a King Log of him, and to transfer the government of the frogs to the stork, Ritchie. However, Jackson still thought that all the noise was about idle schemes of a few weak-minded politicians, that Polk would not be so foolish as to cut his own throat, and that a few words of confidential warning would be sufficient to destroy the network of intrigue. He himself undertook to play the part of the faithful monitor, and he had reason to assume that his warning words would not be without effect. Polk no less than Van Buren owed no small part of his official greatness to the fact that he did not let go of Jackson's skirts, no matter how or whither Jackson went. The influence of the ex-president was still immense; and the assertion made here and there, that the passionate agitation which he carried on with his celebrated big steel pen against Clay and in favor of the annexation of Texas decided the defeat of the Kentuckian, was not entirely groundless. Not to have regarded Jackson's wishes, therefore, without weighty reasons, would have been not only ungrateful but unwise on the part of Polk. And certain it is that Jackson did not look upon this matter as a trifle. The cement that held the gigantic structure of his popularity and power together was the reckless energy with which he always took the part of his friends, and if there was any one who could count upon him, it was Blair. Moreover, in the intrigues

against Blair, the journalist, who had deserved so well of his party, he saw a frivolous breach of party discipline, and he very well knew that strict discipline was the very life of the Democratic party.

It was not long before Jackson was compelled to admit that his representations and warnings seemed to fall upon deaf ears. In a very angry tone he writes to Blair, on the 28th of February, 1845, that he had received information of the incredible fact that the intriguers were thinking of setting the *Globe* aside altogether, and of putting the *Madisonian*, Tyler's organ, in its place; if that happened he thought the party would be divided and Polk continue to play the sorry role before played by Tyler.[1] But not all the roaring of the old lion could save his friend. Blair was compelled to sell the *Globe*, which henceforth, under the name of the *Union*, became the acknowledged mouthpiece of the administration. Jackson himself was at last able to do no more for Blair than to advise him to make sure of his money.

The course this affair took permits scarcely a doubt that Polk was not determined by a petty grudge or by his personal whims. Benton informs us that the president acted under the pressure of a binding promise. A friend, we are told, wrote to Polk in July, 1844, that if Tyler was to be induced voluntarily to retire from his position as a candidate for the presidency, it would be necessary, first of all,

[1] "But that any leading Democrat here had any thought of becoming interested in the *Madisonian*, to make it the organ of the administration, was such a thing as I could not believe; as common sense at once pointed out as a consequence, that it would divide the Democracy, and destroy Polk's administration. Why, it would blow him up. * * * The pretext for this movement will be the *Globe's* support of Mr. Wright. * * * I guarded Colonel Polk against any abandonment of the *Globe*. If true, it would place Colonel Polk in the shoes of Mr. Tyler." Quoted by Benton, Thirty Years' View, II., p. 652

to appease his anger against the *Globe*. When this statement was confirmed from another quarter, Polk wrote of it to Jackson, on the 23d of July. Tyler had good reason to be angry at Blair. His own candidacy was completely hopeless, but it might easily have decided the electoral battle in Polk's favor; and that he, shortly after the date above mentioned, formally withdrew his name from the list of presidential candidates, renders it, to say the least, not improbable that he made this personal satisfaction a condition of his retiring, and that it was in fact promised him.

The other half of Benton's account appears in a somewhat different light. He states that in August, 1844, an intimate friend of Calhoun, in Tennessee, carried on negotiations with Polk, in which the vote of South Carolina in the presidential election was made dependent on the sacrifice of Blair. He adduces no proof of the assertion, and does not even name the supposed negotiator.[1] The proof of its probability is based on this: that Blair, as a decided opponent of nullification and of its originator, was disliked by Calhoun, and that the vote of South Carolina was supposed to depend on the latter, since the electors were not chosen by the people but nominated by the legislature, which was at his beck, and the state, in the isolation of its radical position, had twice refused its electoral vote to the candidates of both parties. But if Calhoun had wished to assume so bold an attitude towards all decided opponents of nullification, he would have rendered it impossible for himself to exert any direct influence whatever in practical politics. He had another and a much weightier reason to complain of Blair, and that reason was so plainly evident that no one acquainted with the facts, and least of

[1] According to Sargent, Public Men and Events, II., p. 267, it was Pickens.

all Benton, could overlook it. Spite of this, however, Benton does not say a single word in allusion to it. The *Globe* had combated[1] in express terms the policy of the administration towards Texas, and assumed on the question of annexation essentially the same position as Benton. But the question of annexation was the key to the battle field of the electoral campaign. Yet if it could not be agreeable to Calhoun to see in an influential position a man who wished Texas incorporated into the Union by the way of a treaty, it was still less agreeable to him to see the presidency fall to the lot of a person who, at the time, did not want to hear anything whatever of annexation. But in the question of the presidency, the only issue was whether Polk or Clay should be elected. It is, therefore, entirely probable that Calhoun labored strenuously to bring it about that Ritchie, who was anxious for annexation, even to madness, should be kept in view as the leader of the future organ of the administration instead of Blair. But that he would have done Clay the service of diverting the electoral vote of South Carolina to a man of straw, in case he met with refusal here, is so inconceivable that it may be safely assumed he made no threat of that nature.[2] Benton's silence on this phase of the question can be explained only by the fact that he himself subsequently sup-

[1] In the beginning of November, 1844, immediately after the presidential election, the *Madisonian* wrote: "THE WAR RENEWED. The *Globe* contains a wanton attack on President Tyler, and a deliberate renewal of the war against the annexation of Texas, as (it) was sought to be accomplished by this administration. * * * We are unwilling to attack back again until the whole Democracy of the Union shall see and acknowledge the flagrant provocations of Mr. Blair, and admit the necessity of flaying him." Niles' Register, LXVII., p. 167.

[2] Many of the most distinguished politicians of South Carolina declared publicly that the State had bound itself and pledged its honor to sustain Polk and Dallas. See Niles, LXVII., pp. 5, 6, 26–28, 45, 88, 89.

ported Polk's administration to an extent which must have been a matter of the greatest surprise, since he claimed to hold fast and unconditionally to the views which he previously advocated on the question of annexation—views with which the policy of the president could not possibly be reconciled.

In his letter of the 28th of February, 1845, Jackson had referred to another point in Blair's demeanor, which by some within the party would have been imputed to him as a great dereliction—he was a partisan of Silas Wright. But Silas Wright was practically Van Buren. Could it be that the bitter quarrel which preceded Polk's nomination, in the national convention, was not forgiven and forgotten? Van Buren and Wright still stood in the shadow of the party flag, even if they stood there with hearts aggrieved. The victory in New York was due to them, and New York had decided the electoral campaign. Were they now to be rewarded with proscription? Polk had, indeed, offered the Secretaryship of the Treasury to Wright, who had been chosen governor of New York, but his friends claim that this was done only because Polk knew that Wright would be obliged to decline it.[1] Wright and Van Buren recommended Azariah Flagg as a proper

[1] Gardiner. The Great Issue; or, "The Three Presidential Candidates," p. 47.—"Before the gubernatorial election it had been charged by the Whigs, as an objection to Mr. Wright, that should he be elected his election would be of no use to his friends; for if Mr. Polk should be chosen president, Mr. Wright would be selected to preside over one of the national executive departments, and would immediately abandon the administration of the State government to the lieutenant-governor. In consequence of these allegations, Mr. Wright repeatedly pledged himself that if elected governor he would not accept of any office in the general government. These declarations, although they may not have been known to Mr. Polk, must have been known at Washington before the offer we have mentioned was made to Mr. Wright." Hammond, The Life and Times of Silas Wright, p. 532.

person for the office, but no attention was paid to their recommendation. According to Benton[1] they then, being expressly requested, proposed B. F. Butler as Secretary of War, but they received the insulting answer that the office had been disposed of a quarter of an hour before their messenger arrived. Hammond,[2] on the other hand, relates that it was offered to Butler, but that he declined it with the remark that he would have accepted the Secretaryship of State which Wright and Van Buren wished him to have, or the Secretaryship of the Treasury. Be this as it may, the composition of the cabinet generated among the special friends of New York's two greatest political magnates a lively feeling of dissatisfaction with the president. They accused him of having effected the election of Seymour, the leader of the Hunker Democrats, who were somewhat cool towards the governor, to the position of the Speaker of the House of Delegates of the Legislature of New York through the agency of Federal officials; and it was not long before they complained bitterly that the radical wing of the party was excluded entirely from government patronage,[3] and that the administration was systematically undermining Wright's position. Whatever may be thought of the justice of these complaints, it was an undeniable fact that the rupture in the Democratic party in New York was widened and deepened by the course taken by the administration. And even if the quarrel had had its source only in the personal interests of the leading politicians, which was unquestionably the case to a great extent, this would have been a matter of no small importance. But the quarrel made its influence felt in important questions of national policy. These differences, perhaps,

[1] Thirty Years' View, II., p. 650.

[2] Ibid.

[3] See *Congressional Globe*, 30th Congr., 1st Sess. App., p. 112.

needed only to be somewhat intensified by circumstances in order, in coöperation with the wedge furnished by Polk's demeanor on the question of the spoils, to separate the dissatisfied faction temporarily or permanently from the rest of the party. But this was to surrender the State to the Whigs, and what that surrender meant had been just experienced. Even before the solemnities of the inauguration were over, the administration had entered on a road, the further following of which must necessarily have turned the triumph of 1844 into a victory like that of Pyrrhus.

The administration owed it to the party to render an account for this all the more because it was forced to allow another faction to become conspicuous by its non-representation in the cabinet. The *Charleston Courier* and other journals expressed themselves with some sensitiveness on the fact that Polk had not clearly enough understood the situation to leave Calhoun at the head of the Department of State; and Benton assures us that the latter had entertained hopes of remaining in the office. If this was really so, both himself and his adherents must be reproached with having completely misunderstood the situation. If Polk had placed the "great nullifier" at the head of his cabinet, he would not only have ruined himself in Jackson's eyes, but he would have incensed the whole party by conferring such a distinction on the small extreme faction.[1] Above all, people passed a very false

[1] According to one version, Van Buren's faction in New York made their support of Polk dependent on his not offering a place to Calhoun in the cabinet. "Mr. Calhoun and his friends expected he would be retained as Secretary of State, and the *Charleston Mercury*, understood to speak his sentiments, accounted for his being left out by the allegation of the New York politicians, that the State could be carried only by sacrificing him, and he was sacrificed accordingly." It was said that Van Buren had now taken his revenge for the carrying through of the "two-thirds rule" in the Baltimore convention by Calhoun's friends. "If such an intimation as the *Charleston Mercury*

judgment on Polk when they supposed that he would be satisfied with playing the part of a dummy in the foreign policy of the country; but to leave Calhoun in office would have been looked upon by himself and by the whole people as the unconditional acceptance of his programme;[1] and this not so much because his superiority of mind and character was incontestable as because his political past, during the preceding fifteen years, absolutely excluded the idea of his subordination to another mind or will. On the other hand, the Calhounites had good ground for the assumption that a president who had been elected on the platform of the question of annexation could not ignore its leader. Polk himself recognized this, only he recognized it in the same manner in which he had done justice to his obligations to Wright. As had been foreseen, Calhoun looked upon the position of Ambassador to England, which had been tendered to him, as an honorable mode of banishment from his country, and declined it. Two other South Carolinians, to whom it was afterwards offered, followed Calhoun's example. This was rightly con-

speaks of were given to Mr. Polk during the canvass, it is evident from the subsequent throwing Mr. Calhoun overboard, that a sort of bargain was entered into, to the effect that the vote of New York should be given to Mr. Polk in consideration that he should discard Mr. Calhoun. Hence we see why such stupendous frauds were resorted to to carry the State, and Silas Wright consented to be the candidate for Governor." Sargent, Public Men and Events, II., p. 266.

[1] It is a matter of great surprise to me that all these obvious considerations were completely overlooked even by Adams. He writes on the 5th of March, 1845: "An entire new cabinet, at the accession of a new President without a reverse of politics, is a novelty under the present constitution. Rumors of it have been in circulation for some weeks, which I did not believe. I doubted especially the removal of the Secretary of State, John C. Calhoun, and even now cannot account for it, or for the tame complacency with which the Senate confirmed this day all the nominations but one." Bancroft's Mem. of J. Q. Adams, XII., p. 180.

strued to mean that South Carolina did not want to engage itself in any way with the administration, but desired to remain entirely free: it was by no means of the opinion that the preservation of the rights of the South could be left to the administration without any surveillance. There was here, as in the North, more than one element whose adhesion to the kernel of the party was very much weakened, and since these were to be found at the opposite end of it, it must have been doubly difficult to keep the party intact. As the loss of either wing might have been sufficient to give the Whigs a preponderance, a single false step might have placed the center before the alternative of blowing hot and cold at the same time, or of surrendering its supremacy for a while in order to bring about a partial reorganization of the party. But did not this, perhaps, mean choosing between the frying pan and the fire? The victory of 1844 had sent the ship of the Democratic party among breakers from whose dangers perhaps not even the most skillful pilot could find an exit. And could the party say that it had confided the helm to trustworthy hands?

Whatever else may be said of the cabinet, it is certain that it was itself no programme. At its head was Buchanan, into the traits of whose character we entered more minutely in the preceding volume of this work. He stood, it is true, in the front rank of Democratic politicians, but his position was not so prominent that the choice would without doubt have fallen on him had he not been the chief of the Pennsylvania Democrats. It was necessary to give satisfaction to the State which was won only by a foul and secret game. Those Pennsylvania Democrats, indeed, who considered the continuance of the protective tariff-system the most important question, could make this very man Buchanan chiefly responsible for the success of this coarse mystification, for no one

could pay so poor and unmerited a compliment to his intelligence as to claim that he himself had been duped by Polk's letter to Kane. Spite of this, however, it was undoubtedly true that many Pennsylvania Democrats would look upon his nomination as Secretary of State as a kind of compensation for the fact that the electoral vote of the State was surreptitiously and fraudulently obtained for Polk. Whether this way of looking at the matter would be general enough to preserve the State to the party, the future alone could tell. Apart from this, this phase of the bargain could at best interest only Pennsylvania. For the future, too, that bargain had a national importance, because it provoked the question whether other strategems of a similar kind, and other measures of doubtful delicacy, were not to be expected from the President and his nearest counsellor, if in their opinion such strategems and measures could be justified by the plea of the interests of the party, and also, perhaps, of the interests of the nation.

Next in rank, fictitious though that ranking be, to the Secretary of State, comes the Secretary of the Treasury. In the person of Robert J. Walker, of Mississippi, Polk had found a man of unquestioned ability for this position. His enemies, indeed, told how his hands were not entirely free from the mud into which its financial management had dragged his own State, while he at a later period, gave himself the pleasure of laying before the world the delinquencies of the President of the Confederate States in this regard.[1] Whether Walker was looking for Jefferson Davis in a corner in which he himself lay hid, I do not know. He certainly was not one of those doctrinarian enthusiasts in the cause of virtue, who

[1] Jefferson Davis, Repudiation, Recognition, and Slavery. London, 1863.

take the categorical imperative of private morals as their law and guide in politics, and he very well knew that a ship frequently makes more headway by sailing back and forth than by endeavoring to force its way forward, spite of every obstacle, in the line of the wind. But his nature could not by any means be reconciled to the darkness and incompleteness of the Kane letter. Whatever he laid hold of, he held fast to. His dialectic and persuasive power was so great that it was exceedingly difficult for any one to cope with him. His letter on the Texas question was one of the heaviest blows dealt in favor of annexation, and we have seen how skillfully he at last piloted it through the shoals of which it threatened to run foul in the Senate. It certainly was not his fault if now all the sail the wind could blow was not spread, or that the ship's speed was not as great and as reckless as might be. That the needle which pointed out his course would always deviate towards the South was certain; but what the pole towards which it tended was, or whether there was such a pole at all, it is difficult to say.

The most important personage in the cabinet was unquestionably the Secretary of War, Ex-Governor Marcy of New York. That he was a man of really gigantic talent, not even his bitterest antagonist has ever denied; but, on the other hand, he had but few friends—the great crowd is, of course, not here taken into consideration—who honestly believed that the firmness of character of which he made a show with so much *aplomb* was natural to him. This judgment would perhaps have been correct, if he had sought to satisfy his great ambition, in the domain of private life. But the course of his development on the stage of politics was such that his noble, natural endowments must have suffered from it, and to some extent been vitiated by it. Nevertheless, this was to such an extent

his real character, that it was easy both for him and for others to be deceived when he ceased to be this character and began, more or less, only to act it as a part. His imposing appearance had a great effect on other persons; and even when the coarse, haughty tone he assumed towards his opponents, and by which he kept the crowd of petty politicians in his own party within bounds, was only simulated, his intellectual superiority made it seem entirely natural, and the mode of expression most befitting the man. But people could never forget that he had graduated in the school of the "Albany Regency," and that he was one of the greatest adepts in its occult science and art of government. That art he revealed to the world in the words: "To the victor belong the spoils." He has often, it is true, been given too much credit for the saying. He only gave expression to what was long known to every child as a fundamental principle of political practice in New York. It is, however, characteristic of the man, that he so boldly acknowledged this fundamental principle and knew how to formulate it so pointedly. It would be saying a great deal too much to assert that this was his only political principle;[1] but among his other political principles, a governing one, was this: Marcy is great, and must become greater yet; the presidential chair alone is exalted enough for him. The South, therefore, which guarded the steps to that high seat, could count on him, so long as his complaisance towards it did not threaten directly to sweep the firm ground from under his feet. And hence it is that, although gifted by nature with the capacities of a real

[1] His absolute trustworthiness especially has been lauded to me by diplomates who had official dealings with him for a long time—a trustworthiness which induced them to overlook his unpolished manner. Whatever he promised, he inviolably kept. On this account, he was very cautious in making promises, and it was exceedingly difficult to induce him to retract a no once uttered.

statesman, he never was more than a distinguished party politician. Even if we give him all the credit some of his achievements deserve, and admit that he was determined mainly by moral and purely patriotic motives in the averting of many evils, at a later period, as Pierce's Secretary of State, yet it cannot be denied that, in all that he strove to accomplish, there is wanting the central, moral idea which is an absolute postulate of great and really statesmanlike efficiency. He was a precious vessel, but one which, by his own fault, held not the contents it was made to hold. Opportunity makes the thief. If Marcy had not lived in a state in which personal ambition could be so fully satisfied with so little trouble, through the agency of the party machine, kept in smooth working order by the oil of the "spoils," a state in which an unusually profitable traffic with the Moloch of slavery dogged the steps of every politician with great temptations, his development, perhaps, would have been such as to give him a full title to the name of a statesman.

The Secretary of the Navy was George Bancroft of Massachusetts. It was not, of course, his special knowledge of marine affairs that caused the choice for this position to fall on him. He possessed no such special knowledge, and had never played a part of any importance in politics, although he had been once the Democratic candidate for Governor. As he had acquired an education far above the average education of Americans, in German universities, and in his travels through the different countries in Europe, and had made a distinguished name for himself as a historian of the United States, the high offices of the nation lay open to him without his having, like the mass of politicians, to climb the ladder, round after round. What was to be expected was, that, as happened after a time, he would be entrusted with a diplomatic

mission instead of with an executive department. His thorough, scientific training, his familiarity with the condition of European affairs, and his winning personal qualities, made him appear the most serviceable perhaps of all Democratic politicians, for the office of ambassador. But he had thus far done nothing whatever to demonstrate his qualifications for the position of a cabinet minister.

Cave Johnson, of Tennessee, the Postmaster General, we need not here characterize more minutely, since his immediate official functions scarcely touched the sphere of higher politics. Last of all, the Attorney General, John Y. Mason, was an inheritance from Tyler's cabinet. Him we may describe as a blue blooded Virginian; notwithstanding his almost total want of social polish a man of amiable and winning ways, of very good parts, an able jurist; as a politician and diplomat, a powerful opponent by reason of his tenacity and great reasoning faculties; thoroughly acquainted with the intricacies of home, party politics, a reliable and exceedingly serviceable party man, not easily disturbed by weak, moral considerations, when the "peculiar institution" of the South was in question, but too honorable, and too much of a "Southern cavalier," to have any liking for the mode of action of low party hacks, or for the employment of the miserable means they used to reach their ends.

So far as political capacity therefore was concerned, the cabinet certainly met all the demands which, in view of the material offered by the Democratic party, and the many things which the President had to take into consideration in the construction of it, could reasonably be made of it. Differently constituted as were the several members of it, it was yet to be expected that they would coöperate thoroughly with one another, for they were all well disciplined partisans. Spite of this, however, the cabi-

net bore the character which in Europe would be described as a bureaucratic ministry. This certainly was no matter of surprise, for there was no one who was able to say what was really the central idea, the positive motive principle of the organization of the party; and of the practical questions directly before it, there was not even one in reference to which the party was a solid unit.

Was perchance the person of the President of itself a programme, as Jefferson and Jackson had once been, and as Clay, Calhoun, Webster, or even Van Buren, would have been now? The history of his nomination and election, which we know, forbids all doubt as to the fact, that public opinion did not look upon him in any such light. But it may be that public opinion was mistaken.

Even Ritchie, whom Polk had selected as his journalistic mouthpiece, called his election "a bold experiment." But at the same time, he took some credit to himself and to the party that they had again with fresh daring chosen the President from among the great mass of the people; and he gave it to be understood that he had no doubt of the success of the experiment, because such was the will of the people.[1] The masses had once entered the lists for

[1] "It belongs to the people of the several States in this great Confederacy to give and to take away the highest offices. In the nomination of Mr. Polk this feature was signally exhibited. He had been taken by the immediate delegates of the people from the ranks—from the bosom of retirement, and from the great body of the people—and placed over the heads of the most distinguished men in the nation. It was scornfully asked, 'Who is James K. Polk?' and the people responded at the ballot box, 'He is our man, and it is our right and our pleasure to place him at the head of the government.' No moral lesson could be more sublime, none more congenial to the true character of our government. The moral which it is calculated to teach is henceforth, that any aspirant who is ambitious of the office should be induced to bide his time, and wait the will of the people. * * * But it has been well remarked that the moral lesson is not yet complete. If the administration of Mr. Polk succeeds, then shall

Jackson with a force which filled the political magnates of the time with blank dismay, and they did so because, with true instinct, they recognized in him a representative of the masses, of gigantic proportions, and thought, by his election, actually to obtain the self-supremacy which legally belonged to them. Now one of the intellectual heroes of the party laid down as the true Democratic doctrine, the principle, that the Presidents of the United States should be chosen by the throw of a die. If the lottery were only arranged by the "direct representatives of the people," and if the people only signed approval to the number drawn, the welfare of the country would be confided to good hands; and if the experiment was successful this time, the excellence of the system would be necessarily looked upon as finally established.

The shamelessness with which Ritchie handed over the kernel of the nut to the politicians and cast the shell to the people, has something of the comic in it. And yet he only honestly told what had actually happened. With a bitter-sweet expression, the politicians had put their hands into the lottery box, when they could do nothing else, because of their want of union, to draw out a prize, and the masses of the people had approved of Polk's name as willingly as they would of any other with which they associated no definite idea. The quality of all others which constituted Jackson's strength, was wanting in Polk entirely. He was not a man of the people, if for no other reason because the people knew nothing about him. Nor could he ever become a man of the people, not even on the supposition that his policy should have obtained a

we have entire confidence in the manner of selection. We shall rest thoroughly satisfied with the bold experiment which has been made by the people, and we shall take care to practice it in future times." *The Richmond Enquirer*, March 11, 1845.

brilliant success and the undivided approval of the masses. He possessed nothing of that which, in the stereotyped vocabulary of American political phrases, is called "magnetic." His personal appearance had nothing commanding, and his address, spite of its simplicity and want of assumption, was not winning.[1] The deep gravity ever seated on his countenance did not win sympathy for him, neither did it lend him a dignity which compelled respect, nor the compassion which is given to him over whose couch care has stood sentinel in the night. On his private character, there was not a spot, and hence he was not without friends through life. But people did not feel attracted to approach very near to him. After a first meeting, they asked themselves, which was the more icy, his gravity or his politeness.[2] Had he been more attractive as a person he might perhaps have been judged more favorably and more correctly as a politician. Claiborne describes him as nerveless, fond of compromise, and reproaches him because, spite of his abilities, he was a party tool, destitute of will.[3] Obedience to party commands, was certainly one of the principal articles of his political creed. But

[1] Seward writes on the 2d of January, 1846, from Washington to Weed: "He (Polk) is a gentleman of fifty, of plain, unassuming manners and conversation, and does not at all inspire awe or respect. I cannot describe the impression he makes upon me better than by saying that I miss the dignity and grace of our reception by General Jackson." F. W. Seward, Autobiography of W. H. Seward, p. 771.

[2] Claiborne says: "Polk was grave almost to sadness, self-restrained and chilling." Life and correspondence of J. A. Quitman, p. 228. And Quitman writes July 7th, 1846: "In the afternoon called on the President. Has a haggard and careworn look; polite and chilly." Ibid., p. 237.

[3] "Polk was a political martinet, a rigid disciplinarian, who regarded the decision of a caucus as sacred and binding as the decree of a court. He was a man of ability, but of expediency, and found in compromises, which are, in fact, concessions of rights, the easiest solution for political difficulties." Ibid., p. 228.

if the politicians had expected that they were now going to have the mastery, because he was willing to play the part of a manikin, they were greatly mistaken in the man. The avidity and narrow-minded precision which were the distinguishing traits revealed in his long, lean face, gave assurance that neither fancy nor unbridled ambition would mislead him so far as to make him lose himself in the dangerous paths of an original, personal policy in opposition to the party. But his large, slightly pendant nose, gave his face an expression of so high a degree of self-consciousness that no one could have doubted his capacity to take the initiative in a matter with marked decision, while his powerful chin and the small, firmly compressed lips of his wide mouth, bore witness to an energy which would not allow itself to be easily forced from a course on which he had once, and after sober calculation, entered. The party could count upon him, beyond question; but he wished to be the party's head, not merely in name and by right, but in fact. And as head of the party he considered himself justified, if not in duty bound, to take the lead in the course it pointed out so far as in his estimation it was possible and suitable to the purpose to do so. The person of Polk himself, therefore, was no programme; but this by no means meant that he himself had no political programme. And if he had one, it certainly was advisable for those who presumably would not like it, to rub their eyes and to keep their hands in readiness to obstruct his way, before it was too late.

The inaugural address was an unusually long-winded document, but, besides a discourse on the fundamental principles of the constitution and the blessings of the Union, for the delivery of which no special apparent reason could be discovered, it contained nothing but general remarks on the various questions of the day. So far as

the economic policy of the country was concerned, the President expressed himself in an entirely unambiguous manner only against the connection of the finances with a bank of any kind. On his attitude towards the question of internal improvements, he was entirely silent; and his diffuse statements on the vital question of the tariff were a literal repetition and expansion of the ambiguities of the Kane letter.[1] Why should he thus early lift the veil and have the disappointed and deceived protectionists of Pennsylvania hang upon his heels,[2] when, as was to be anticipated, Congress would not meet for nine months. The annexation of Texas was treated in such a way, that it seemed that all that remained to be done, was to go through a few formalities to bring the question already settled to a full conclusion.[3] The inaugural address did

[1] The Calhounites immediately saw in this a proof of the fact, that the policy of waiting—a policy not free from mistrust—which they observed towards the administration, was very well founded. In a vexed tone, the *Charleston Mercury* wrote, on the 8th of March, on this part of the inaugural address: "Oracular silence on the one [internal improvements], oracular nonsense on the other"—the tariff.

[2] The Democratic politicians who knew something of Polk's political part had, of course, not been duped by the Kane letter. This is clearly and unmistakably apparent from the fact that the House of Representatives of the Legislature, as early as the beginning of 1845, unanimously passed a resolution which "instructed" the Senators and requested the Representatives to vote against any reduction of the tariff of 1842. Niles' Reg., LXVII., p. 352. It is to be presumed, however, that many of the deceived deceivers would not have worked in Polk's interest if they had not confidently counted on a combination of circumstances which would forbid both him and the free trade majority to touch the protected interests with too rude hands. In the beginning of 1846 a similar resolution was unanimously passed by the Senate of the State Legislature, and by the House, by a vote of 79 against 13. Niles, LXIX., p. 370.

[3] On 'Change Polk's election was looked upon as decisive of the question. Niles' Reg. of December 7, 1844 (LXVII., p. 224), informs us that the Texas bonds had trebled in value since the election of Polk.

not even mention Mexico. All it said was that annexation was a matter which exclusively concerned Texas and the United States. The rest of the world was given to understand that "the chances of war" would be diminished by annexation, and the assurance was given it that the United States, by reason of its political construction, could never harbor a desire for conquest[1]—an assurance which was destined in a very short time to meet with the strangest, practical commentary imaginable. In answer to the Cassandra warnings of his own countrymen, the President declared that the more extensive the Union became the firmer it would become. To this he added the remark: it might "be safely extended to the utmost bounds of our territorial limits."[2] How should this ambiguous expression, "our territorial limits," be understood? When he used the expression, had he nothing in particular in his mind, or did he employ it to intimate to the people that at the first, favorable opportunity they should daringly deduce the final practical consequences of that assertion? The people seemed to be of the former opinion. The phrase passed entirely unnoticed, and indeed, the whole

[1] "The world has nothing to fear from military ambition in our government. While the chief magistrate and the popular branch of Congress are elected for short terms by the suffrages of those millions who must in their own persons bear all the burdens and miseries of war, our government can not be otherwise than pacific. Foreign powers should, therefore, look on the annexation of Texas to the United States, not as the conquest of a nation seeking to extend her dominions by arms and violence, but as the peaceful acquisition of a territory once her own, * * * thereby diminishing the chances of war, and opening to them new and ever-increasing markets for their products." *Statesman's Manual*, III., p. 1553.

[2] "It is confidently believed that our system may be safely extended to the utmost bounds of our territorial limits; and that, as it shall be extended, the bonds of our Union, so far from being weakened, will become stronger." l. c.

address was treated with the utmost indifference as being, on the whole, empty and unmeaning.

One sentence alone constituted an exception to this. The President declared that the legal claim of the United States to Oregon was "clear and unquestionable," and promised to assert it and enforce it, by all constitutional means. His words on this subject had a powerful effect. Some there were who exulted over them, and others who asked themselves in terror what would become of the country, in four years, with this man who took pleasure in playing in dry straw with a firebrand. The woods echo back the sound they receive. On the 4th of April, Lord John Russell, in the House of Commons, called the declaration of the President, a "blustering announcement";[4] and the *London Times* returned the President's announcement in kind the following day.[5] But neither in England nor in the United States, had any one good reason to act as if he had heard a clap of thunder from a clear sky. It was well known that the platform of the Democratic national convention at Baltimore was the basis on which Polk had been elected, and, in it, this "blustering announcement" could be read clearly enough.[6] Hence it is very doubtful whether either country had any right to complain. The people had ratified the platform by the election; for that many who had voted for Polk did not like this plank or

[4] "A blustering announcement." Niles' Reg., LXVIII., p. 114.

[5] "If the question was to be determined by the arguments and in such discussions—that is to say, by reference to geographical facts, to discoveries, to treaties, and to occupation—the case on behalf of the British claim, as it was ably stated by Lord John Russell, is complete; and it is only in consequence of admissions made with too much laxity on former occasions—especially in the interpretation of the treaty at Ghent—that any concurrent right can be admitted to exist in the United States to any portion of the territory."

[6] Niles' Reg., LXVI., p. 227.

that in it, mattered not, since it was an acknowledged fact that Polk's candidacy was based upon that platform as a whole. His election was looked upon as desirable in England that the tendencies of the anti-protectionists might prevail. The constitution, indeed, knew nothing of platforms and national conventions. It had placed the international affairs of the Union in the hands of the President, or of the President and Senate. But this was not the first correction which it was undertaken to give the constitution in accordance with Benton's "demos krateo principle." If it did not succeed, the responsibility for the injury it did, rested, in the first place, on those who had begun these "improvements." Perhaps it was to be wished that the United States might be forced to take the dose as strong as it had been prepared for them, by the Baltimore convention, that their eyes might finally be opened to the doubtfulness of the propriety of the application of this process of correction of the constitution, which was becoming more and more frequent. In this particular case, a new and strange ingredient was added to it, one which imparted to it a peculiarly corrosive power.

The Oregon question did not date from yesterday. Oregon had been the subject of negotiations between England and the United States, for decades. Convention after convention had been concluded between the two countries, and all they had done was to make a provisional arrangement, because the difficulties in the way of a definitive settlement of the question could not be surmounted. The claim that the title of the United States was "clear and unquestionable," was the severest condemnation of the presidents, ministers and senates who had thus far attempted to solve the question. They had either been intellectually so weak that they could not perceive the right of the United States to Oregon — a right so clear

and unquestionable—or they had been wanting in the courage or the will to enforce it. This charge makes it necessary for us to inform ourselves of the history of the question up to this time. Not until we have seen how unjustifiable was the soiling of his own nest, can we properly appreciate the audacity and absurdity which lay in the fact that the irresponsible and yet "direct representatives of the people," who owed their nomination to king caucus, and their commission to its body servant, the "primary meetings," summarily disposed of the difficulty with big words — not until then can we fully estimate the shameful prostitution of the spirit of the constitution, which lay in the fact that Polk subserviently accepted the verdict of the national convention, and dutifully announced it as the final judgment of the Federal executive; for he was doing this, and not merely announcing his concurrence in the opinion, when he introduced the words "clear and unquestionable" into his inaugural address with quotation marks.

It was not only the politicians who had "an ax to grind," or who suffered from the delirium of national greatness; and the larger part of the masses, always too easily incensed against England, that loudly applauded the President because he excited the American eagle to flap his wings thus powerfully in the face of the British lion: but many a cool-headed and thoughtful patriot considered the case of the United States so good that the honor of the country still more than its interest forbade any compromise, or rejoiced that the decided position taken by Polk would put an end to the provisional state of things, from the longer continuance of which they expected a continual increase of difficulties. Be this as it may, even if Polk's claim was entirely well founded,

his procedure showed, just as the history of his nomination and election had done, that the progressive radicalization of the Democracy had taken another step in a downward direction.

CHAPTER II.

History of the Oregon Question prior to Polk's Administration.

The Baltimore platform had declared that the right of the United States to "all Oregon" was unquestionable. The President had omitted the "all" in his inaugural address, but the passage in the address in reference to the subject was generally construed as an unconditional ratification of this declaration, and not the slightest objection to this interpretation was heard from any quarter. But the phrase, "all Oregon," was understood to mean the Oregon territory up to the line of 54° 40′ north latitude. "Fifty-four, forty or fight," was the war-cry of those who thought they were marching under the leadership of the President in this question. Hundreds of thousands of Americans rang out this cry in tones of unshaken confidence, without imagining that the Oregon difficulty had gone through a whole series of phases, before this fifty-four forty line was first mentioned.

The year and day of the beginning of the difficulty cannot well be determined. At the beginning, it was of too general and vague a character, to permit of any discussion about fixed boundaries. This would, indeed, have been impossible since the controversy was one about newly discovered territory. Both sides, therefore, went back in laying the foundation of their claims, to the history of the discovery, many of the main facts of which were veiled in misty doubt. England appealed to the discoveries of Sir

Francis Drake, on the northwest coast of America, in 1578 and 1579. The United States, on the contrary, as the heirs of the Spanish Dominion north of 42° north latitude, under the Florida treaty, relied upon the earlier discovery of the coast by Ferrelo, in 1543, and affirmed that Drake had only gone as far north as Ferrelo, that is, to 43°, and had not, as was claimed, penetrated as far north as 48°. On the American side, the whole series of Spanish discoverers after Ferrelo, up to 1775—Juan de Fuca, Vizcaino, Perez, Heceta, Quadra, Maurelle—was enumerated. They had explored the whole coast between 37° and 49° 30′ and between 56° and 59° north latitude. Against this stately array, England had not a single name to set for two whole centuries. Therefore, the greater weight was laid upon the fact, that Cook, during his third voyage in 1778, had taken possession of Nootka Sound; and Meares, in a Portuguese ship, also in 1788, had taken possession of the Straits of Juan de Fuca, in the name of the King of England.[1]

Many publicists and politicians wore their fingers to the bone in writing, and made their tongues sore in talking, about all the weightier points in the history of the discovery. But it could not be concealed, on either side, that all this matter afforded no grounds for a legally valid determination of boundaries. With regard to this part of the controversy, at least, Winthrop hit the nail pretty nearly on the head when he declared that the rights of both parties were equally imaginary.[2] And, in reality, it all served only

[1] See concise reviews of the history of the discoveries from the American stand point, in Speeches and Occasional Addresses, by John A. Dix, vol. I., pp. 6–45, and from the English, in Fisher's Colonial Magazine, January, 1843, quoted in Niles' Reg., LXIV., pp. 40–42.

[2] "I declare to you, sir, that as often as I thread the mazes of this controversy it seems to me to be a dispute as to the relative rights of two parties to a terrritory, to which neither of them has any real right whatever." Congressional Globe, 29th Congr., 1st Sess., p. 133.

as material to swell the plea into more respectable bulk and deck it out in the eyes of the people. A settlement of the controversy was as impossible upon this basis as upon the ground of a papal gift of the undiscovered parts of the world or of the verse in Genesis which Adams threw into the fight, on behalf of the United States.[1]

The controversy first obtained a firmer footing, by a close definition of the object of controversy. Still the disputants could not yet bear to leave the shaky ground of the history of the discovery. But they had to deal, in the main, with unquestionable facts, and, in truth, with facts of a sort which had, for the advancement of claims of title, upon the ground of discovery and exploration, a wholly different value from such matters as the mere disembarking upon some point, the erection of crosses and the registering of declarations which had no practical results.

In their own direct right, the United States entered into the controversy only by the limitation of the question to this: who has the best claim to the valley of the Columbia River? Now here the Americans could unquestionably make good against England a claim of priority of discovery.[2] May 11, 1792, Robert Gray, of Boston, in his ship, the *Columbia Rediviva*, had entered the mouth of a great river, which he had sighted some weeks before, had sailed up the stream, quite a distance, and had named it

[1] Adams evidently meant to express, in substance, the idea which elsewhere appears in the history of the United States in the more pompous form of "manifest destiny," and this is unquestionably, to a certain extent, justified by the whole development of the Union. Nevertheless it can scarcely be thought anything but laughable, when a leading statesman seeks to deduce the justice of a claim to territory from the Mosaic account of the creation.

[2] Spain, it is true, claimed that she had discovered the Columbia twenty-one years before. But if the doubtful claim were recognized, England could, in no case, derive any advantage from it, for the United States, by the treaty of Florida, had inherited the rights of Spain.

after his ship. The English, indeed, affirmed that the mouth had first been discovered by Vancouver or rather by his lieutenant, Broughton. But this is certainly untrue. Vancouver had indeed gone by it, but he had not seen it. From his own journal, it appears, most undoubtedly,[1] that he did not even place any faith in Gray's statements, when the latter announced to him his discovery, even before the *Columbia* had been able to enter the river.

As soon as the existence of a great stream, which had long been asserted and as often steadfastly denied, was made certain, the question of the possession of this northwestern territory assumed quite a different meaning. An expedition undertaken from Canada by Mackenzie, the same year, led to weighty results, but not to the discovery of the upper Columbia. In the spring of 1793, Mackenzie reached the Tacoutche Tessee (now Fraser's River), which he erroneously took for the north branch of the Columbia. He followed its course quite a distance and reached the coast some five hundred miles north of the mouth of the Columbia. The expedition of Meriwether Lewis and William Clark, fitted out by the American government, which left the junction of the Mississippi and Missouri in the spring of 1804 and followed first the course of the latter, was more fortunate. After a year and a half, October 7, 1805, the explorers were able to embark on the Kaskaskia, the left branch of the Columbia, and on the fifteenth of November they reached the mouth of the main stream.

Before Lewis and Clark had entered upon their journey, the United States had become, through the Louisiana treaty, the heirs of France upon the North American continent. As such they appealed to the treaty of Utrecht.

[1] See the proof in the address by Dix already cited.

The tenth article of this treaty declared that the boundary between the English and French territory should be determined by commissioners. These commissioners, it was claimed, had agreed upon the forty-ninth degree of north latitude, as the dividing line, and this so-called line of the peace of Utrecht was the first definite boundary pitched upon in the controversy. As long as the matter was, so to speak, only an academic question, England, through indifference, had made no objection to the line of Utrecht. But now, after the discovery of the Columbia, the mouth of which lay some three degrees south of this line, England would not admit that this division held good, and supported this by the assertion that no authentic proofs of the alleged agreement of the commissioners were produced.[1] That the Americans loudly complained against this change of front on the part of England, is, of course, intelligible enough, but the objection which England made was yet, in truth, of so much weight that it must be admitted, that even up to 49° north latitude, the title of the United States was not unquestionable. Here and there, indeed, a voice confessed this openly.[2] But, among the Americans, there

[1] See the particulars in regard to the line of Utrecht, from the American standpoint, in Greenhow's History of Oregon and California, p. 276. Dix says in the speech already mentioned: "I am aware that a doubt has recently been raised as to the fact of such a line having been agreed on; but, after nearly a century and a half, it is questionable whether an arrangement which had been acquiesced in (Colonel Benton here added—'and acted on'), as having been made by the competent authority at the proper time, can be denied, even though no authentic record of the meeting of the commissaries can be found." Pp. 45, 46.

[2] The North American Review, Jan., 1846, p. 235, says: "We shall try * * * to show that both titles are necessarily imperfect, owing to the entire indefiniteness of all the principles of international law which are applicable to the subject, and to the contradictory character of the historical precedents which are adduced; and that this position would hold, even if all the assumed facts, many of which are disputed, were indubitable." The proof of this is fully stated in the following ten pages.

was no difference of opinion whatever as to the fact that up to the forty-ninth degree the title of the United States was much better than that of England.[3] In fact, this cannot be questioned. At first, it was indirectly admitted even by England herself.

The first successful settlement upon the Columbia was founded in March, 1811, by the American Pacific Fur Company, and was named Astoria after its head, the New York merchant, John Jacob Astor. But as early as 1813, this organization was obliged to sell all its goods and possessions to the English Northwest Company, because the government of the Union was not in condition to protect it in the war with England, which had broken out the year before. Some days later, a war vessel hoisted the English flag in the settlement. These occurrences were the immediate cause of the fact that the latent Oregon question was placed, as an international controversy, for more than a generation, upon the order of the day of the two powers concerned. The first article of the treaty of Ghent declared that "all territory, places, and possessions whatsoever" which either power had taken from the other should be "restored without delay."[2] Upon the ground of this pro-

[3] W. Robertson, Oregon, Our Right and Title, p. 7, says: "Great Britain, in view of the cession by Spain and other cessions, has no right or title whatever to this territory, as far as the parallel of 49°." This was unquestionably the most favorable statement of the question for the United States, for from the fact that the right of the Union was not incontestable it by no means followed that England had any claim on the territory. As soon, however, as there was talk of "all Oregon" Robertson admitted freely that England had as good ground for its claims as the United States. "It is necessary, in the outset, to define the issue between Great Britain and ourselves. It is not a question of positive, but of relative, right; not whether either party have exclusive control, for the course that has been already pursued clearly proves by each that the other is entitled to certain rights, but it is the limit and extent of these rights that is in dispute." Pp. 7, 8. And p. 43 he says: "We claim to 49°, and that is all which we have any right to."

[2] Stat. at L., VIII., p. 218.

viso, Monroe declared to the English *chargé d'affaires*, Baker, July 18, 1815, that the United States demanded the restoration of Astoria. England did not at once give heed to the request, because the Pacific Company had been bought out by the Northwest Company, and since then the territory had been regarded as a possession of his majesty. But the United States naturally did not admit that their right of possession could be transferred by a trading-company, and England finally allowed that they were entitled to the actual possession of the object in controversy during the negotiations in regard to the title.[1] Consequently, the formal surrender of Astoria took place October 6, 1818. The importance of this act lay in its express recognition of the fact that the United States, apart from their rights as discoverers, could also make good for the basis of their claims the much weightier rights which grew out of the first actual occupation of the territory; and in keeping with this recognition, England declared, eight years later, that she did not claim exclusive dominion over any part of the territory.[2]

England would scarcely have acknowledged as much if the United States had not also shown a conciliatory spirit. Both sides were in no condition to carry to extremities a controversy about a territory whose worth was, at the time, so very small Neither side could yet reconcile itself to

[1] Rush, the American ambassador in London, writes, Feb. 14, 1818, to the Secretary of State, Adams: "It is proper * * * to say that Lord Castlereagh admitted, in the most ample extent, our right to be reinstated, and to be the party in possession while treating of the title." Deb. of Congr., XIV. p. 655.

[2] Protocol of December 16, 1826. "Great Britain claims no exclusive sovereignty over any portion of that territory. Her present claim not in respect to any part, but to the whole, is limited to a right of joint occupancy, in common with other States, leaving the right of exclusive dominion in abeyance." Reports of Committes, 25th Congr., 3d Sess., Vol. I., Rep. 101. House of Repres., p. 3.

a renunciation which might sometime assume a tremendous significance. They averted the difficulty by coming to terms, for the present, at the cost of the future. October 20, 1818, a convention was signed, according to the third article of which, all land west of the Rocky Mountains, claimed by both powers, should be, without prejudice to their claims, "free and open" during the next ten years, to the subjects of both.[1] Now when the actual interests in the contested object were still almost entirely prospective, they were unable to come to any agreement, and they postponed the attempt at a settlement for ten years, during which the development and also, naturally, the entanglement of the actual interests were to go on wholly undisturbed.

Since the industrial worth of the land was supposed to consist almost exclusively in the trade in peltries, and since, notwithstanding the territorial continuity, there was as yet no immediate connection with the basis of operation of either of the nations concerned, the development of the territory nowhere rushed forward with the rapidity which began to be the rule elsewhere in North America, or at least within the lines of the Union. Nevertheless, within a few years there grew up interests of such magnitude that they could not safely be ignored by the respective states.[2] England did not shut her eyes to this fact, and conducted herself accordingly. As early as 1821, she enacted the extension of her legal system throughout Oregon. The United States, however, years afterwards, had reached only the stage of talk and fruitless propositions. This phase of the history of the Oregon question is one

[1] Stat. at L., VII., p. 249.

[2] * * * "It appears from the best information that there is at this time eight millions of property owned by citizens of this Republic in the Pacific Ocean." Floyd's report of Jan. 25, 1821, to the House of Representatives. Deb. of Congr., VII., p. 79.

of the most interesting instances of the fact that, while the Americans surpass all the other people of the earth in individual energy and activity, the United States on account of their political nature, are much less inclined and adapted to a quick, resolved and strong political course than are the monarchies of Europe. Indeed, where such a course has been adopted, the Constitution has always been treated with such recklessness, that these periods belong to the darkest chapters of their constitutional history. But, on the other hand, this clearly shows the fact, surprising to most Europeans, that the political structure of the Union makes the policy of the Union one of an eminently conservative character, as long as the Constitution is construed honestly and not in such a way as to lower it to a mere tool of party interests.

In December, 1820, the House of Representatives appointed a committee to report upon the condition of the settlements of the Columbia, and the propriety of steps on the part of the Government to take possession of the territory. Floyd, of Virginia, who had brought forward the matter, submitted a detailed report upon it January 25, 1821. The report declared in decided terms that the interests of the Union on the Pacific should be guarded with energy. The bill reported by the committee came up for discussion in December.[1] Its friends made a few speeches, in which they laid especial emphasis upon the fisheries and the trade with China, and also referred to the possible growth of the lumber trade and of agriculture in the future. But they could excite no interest in the House.[2] On the part of the opposition, only Tucker, of

[1] Deb. of Cong., VII., pp. 392–406.

[2] Wright, of Maryland, began his speech with the remark: "The seeming apathy that I have thought I discovered, has alarmed me for its [the bill's] fate, and induced me to trespass on the time of the House, at least to elicit a discussion."

Virginia, thought it worth while to speak, and the only noteworthy thing in his speech was the assertion that the Rocky Mountains would necessarily, for all times, constitute an impassable dividing line between interests. January 27, the motion to take the bill from the table was defeated by 100 to 61 votes.[1]

Floyd did not allow himself to be dispirited by the miscarriage of the scheme the first time, partly through indifference and partly on account of the belief that such a wondrous extension of the Union was chimerical and dangerous. December 29, 1823, he obtained the appointment of a new committee, and on the fifteenth of April, 1824, he made a report to the House, in the sense of his former suggestions.[2] Inasmuch as president Monroe had recommended by this time, in his annual message of December 7, 1824, the establishment of a military post at the mouth of the Columbia, or at some other point of the northwestern coasts,[3] the House passed, December 23, 1824, by 113 to 57 votes, a bill "to provide for occupying the Columbia or Oregon river," after it had struck out the fifth section, which authorized the President to organize a territorial government in case it were demanded by the public good.[4] But the Senate, upon the motion of Lowrie, of Pennsylvania, laid the bill on the table.[5]

The executive unquestionably showed a much better knowledge of what the public interest demanded than did Congress. So little security did it feel in the provisional arrangement made by the convention of 1818, that it had sought, as early as 1823, to induce its dangerous partner

[1] Ibid., pp. 421, 422.
[2] Ibid., VIII., pp. 3, 4.
[3] Statesman's Man., I., p. 477.
[4] Deb. of Congr., VIII., p. 221.
[5] Niles' Reg., LVI., p. 225.

to dissolve the partnership and divide. Rush was instructed by Adams to propose the 51° north latitude, as the line of division; but he was also authorized to accept the line of 49°—that is to say, the extension of the boundary line to the Rocky Mountains, in case England would not content herself with less.[1] But even the line of 49° would have shut her out from the Columbia,[2] and she therefore declared that she would not give up her right to found colonies upon the whole unoccupied territory. But a circumstance which happened at this time opened a prospect of her receding from this claim.

For many years hitherto, Russia had been pleased to make the strange claim that her possessions on both shores of the Pacific gave her the right to treat the northern part of the ocean as a *mare clausum*. An ukase of September, 1821, sought to enforce this claim. The emperor, Alexander, declared that the exclusive sovereignty and jurisdiction of Russia extended upon the Asiatic coast as far south as 45° north latitude; upon the American coast, from Behrings straits, to 51° north latitude, and from these points, on both sides, one hundred Italian miles out into the sea. Foreign ships which crossed these imaginary lines of demarcation, were threatened with confiscation. England and the United States, of course, entered a protest against this atrocious ukase. Thereupon it was suspended, and the Emperor proposed that the three powers should

[1] Niles' Reg., LV., p. 140.

[2] This was the decisive point. The English counter-proposition was: "The boundary line * * * to the west * * * of the Rocky Mountains shall be drawn due west along the 49th parallel of north latitude, to the point where that parallel strikes the great northernmost branch of the Oregon, or Columbia river, * * * thence down along the middle of the Oregon or Columbia to its junction with the Pacific Ocean." Protocol of the twenty-third conference, July 13, 1824.

adjust, in a friendly spirit, all their claims to this territory. England was at first ready to agree to this proposition, but afterwards she preferred to come to a separate understanding with Russia, because Monroe had, meanwhile, in his message of December 2, 1823, made the celebrated declaration that the American continent was thenceforth not to be open to colonization by European powers.[1] The United States, which were likewise ready to take up Alexander's proposition, proposed to England that the three powers should agree that Russia should not found any colonies south of 55° north latitude, and that England should make no settlements south, and the United States none north of 51° north latitude.[2] Canning now answered that, in his opinion, England had to agree upon the northern boundary of her territory only with Russia, and upon the southern boundary only with the United States.

Thus was frittered away an opportunity of ending, by careful management, the Oregon question at once and forever. Both powers came to an agreement with Russia, it is true, but this only served to make their own quarrel still more complicated. April 17 (April 5, old style), 1824, a treaty was concluded between the United States and Russia, the third article of which forbade the subjects of the contracting states to settle north and south, respectively, of 54° 40′, north.[3] The treaty concluded between England and Russia in the following year also took 54° 40′ as the starting point of the boundary line between the

[1] * * * "The occasion has been judged proper for asserting, as a principle in which the rights and interests of the United States are involved, that the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European powers." Statesmans' Man., I., pp. 452, 453.

[2] Rush to Adams, Dec. 19, 1823. Deb. of Congr., XV., p. 530.

[3] Stat. at L., VIII., p. 304.

two states. These provisions of the two treaties were an adoption of the proposition of the United States already mentioned, so far as this related to the establishment of a boundary between England and Russia.[1] But in the United States the delusion arose gradually that the line of 54° 40′, which had its origin in these treaties, or rather in that proposition, was the boundary which had been claimed by them from the beginning, and that Russia, in the treaty of April, had recognized the justice of the claim. But the facts already given show that Benton was unquestionably right when he declared that the whole claim rested on "thin air."[2] When the near expiration of the time set by the treaty of October 20, 1818, made it necessary to take up the matter again earnestly, this delusion was not yet firmly rooted. On both sides, the propositions of 1824 were renewed, but with equally poor results. England, however, now gave a turn to her argument, from which it appeared upon what weak supports her claims to the territory south of 49° rested. The discoveries of Drake and Cook were pushed from the foreground into the misty background of the argument, and nothing was said of the purchase of the land from the Indians, which had before been asserted, but about which there was nothing to be said in addition to the bare assertion. On the other hand, the Escurial treaty of October 28, 1790, which had before been wholly forgotten, sud-

[1] The line had then been spoken of, it is true, as 55° north, but the intention was to make the southern point of Prince of Wales Island the starting point of the boundary. This was thought to be on the line of 55°; and 54° 40′ was merely the correction of this supposition, which was recognized as erroneous.

[2] "And this is the end of that great line! all gone—vanished—evaporated into thin air—and the place where it was not to be found. Oh! mountain that was delivered of a mouse, thy name shall henceforth be fifty-four forty." Deb. of Congr., XV., p. 531.

denly became the ace of trumps. England appealed to the third article of this treaty, according to which the subjects of the contracting powers were to have the rights of landing on the coasts of the Pacific "in places not already occupied, for the purpose of carrying on their commerce with the natives of the country, or of making settlements there."[1] On behalf of the United States, it was asserted that the expression "settlements" was not to be understood in its ordinary broader sense, because the following articles were expressly inserted as limitations of Article III.; and Article VI., permitted English subjects to erect only "huts and other temporary buildings" for the purposes of the fisheries. Yet the argument evidently was not tenable, because Article VI. referred only to the southern part of the coast of South America. These limitations being made with regard to this latter, the conclusion rather to be drawn was, that they were not intended to apply to the other coasts, and that the word "settlements" in Article III. was therefore to be understood in its ordinary sense. It would not, indeed, have been possible to dispute this at all if, in the debates of Parliament over the Nootka Sound treaty, the opposition had not adopted the American interpretation.[2] We have here a

[1] "It is agreed that their respective subjects shall not be disturbed or molested, either in navigating or carrying on their fisheries in the Pacific Ocean, or in the South Seas, or in landing on the coasts of those seas, in places not already occupied, for the purpose of carrying on their commerce with the natives of the country, or of making settlements there (*'pour y former des établissements.'*) **Martens,** *Receuil de Traités*, **IV., p. 495.**

[2] Without referring in a single syllable to the fact that Article VI. related only to a part of the South American coast, Fox said: "Our right of making settlements was not, as now, a right to build huts, but to plant colonies if we thought proper; * * * but after this pompous recognition of right to navigation, fishing and commerce, comes another article, the sixth, which takes away the right of landing, and

noteworthy illustration of what good weapons parliamentary oppositions often put into the hands of the opponents of their country, by pushing to an extreme, in the supposed interests of their party, their criticism of the government action.

We need not investigate here the question as to the soundness of the further assertions of the Americans that all the rights of England, under the Nootka Sound treaty, had been lost, because she had founded no colonies prior to the outbreak of the war (1796), and because the treaty of the Escurial had not been put in force again by the peace of Madrid (1814). The question was not to be decided by dusty documents, whatever these might contain. The decisive thing was that, as the English commissioners, Huskisson and Addington, said during the negotiations of 1827, "valuable British interests have grown up in these countries."[1] Whether or not this had occurred, as they declared, under the Nootka Sound treaty, was immaterial. The interests had grown up, and this determined England's policy. The United States were not in condition to bully or to buy her into renouncing her share of power upon the Columbia, and so she did not renounce it. No

erecting even temporary huts, for any purpose but that of carrying on the fishery, and amounts to a complete dereliction of all right to settle in any way for the purpose of commerce with the natives." Benton, Dix, and others were, however, by no means justified in the assertion that Pitt had substantially recognized the justice of this interpretation by his "admissions." It is true he said: "Though what this country had gained consisted not of new rights, it certainly did of new advantages." Ibid., p. 1002. But, according to his view, England had always had the right, and therefore had it still, to found colonies upon the parts of the coast not already occupied. And on this point Fox naturally agreed with him. "Our right before was to settle in any part of the south or northwest coast of America not fortified against us by previous occupancy."

[1] Deb. of Congr., XIV., p. 654.

progress was made, and it was therefore finally decided to extend the convention of October 20, 1818, indefinitely. Both powers reserved the right of giving notice of its termination. Twelve months after such notice, it was to cease.[1]

England might rest satisfied with this arrangement, since everything seemed to promise that her actual position in Oregon was too strong and would become too far superior to that of the United States to admit of the prey being disputed her much longer with any prospect of success. However better the American title might be, the Hudson's Bay Company was the only actual power in the region.[2] A little American settlement grew up first in 1832, south of the Columbia, in the fertile valley of the Wallamette.[3] Although it grew up so slowly and was so completely dependent for many years upon the Hudson's Bay Company, yet it at first sight was evidently a germ with a tremendous capacity for development, while the mighty English company, upon somewhat close inspection, appeared as an exotic growth, without a future. The Hudson's Bay Company was only a trading association whose sole aim was the pursuit of the material interests of a handful of capitalists. England had not founded a colony in Oregon, but a few Englishmen had constructed there a machine for producing wealth, which was kept going by its employees and in which Indians and Sandwich Islanders were the main wheels. The Company did not aim at the development of the country, but its exploitation. In promoting civiliza-

[1] Aug. 6, 1827. Stat. at L., VIII., p. 360.

[2] Dix says that the convention of 1818 or rather of 1827 "has in reality been for her [Great Britain] an exclusive occupancy of the whole territory north of the Columbia." Speeches, I., p. 56.

[3] The name is written in many different ways. It appears in this form in the first memorial of the settlers to Congress.

tion, it labored only so far as the preservation of its pecuniary interests made this unavoidable. If the interests of civilization actually or apparently came into conflict with these interests, they were trodden under foot, or, when this did not happen, there was complaint in England over the criminal blindness and carelessness of the Company.[1] The colony in the Wallamette valley was, on the other hand, the beginning of the actual settlement of the land. The American settlers were not the mercenaries of foreign capitalists, to whom the weal or woe of the land was immaterial so long as their money yielded a good interest. They were pioneers, who were hewing out a path for civilization with full manly purpose, while they built houses for themselves and sought to strike root with wife and child in the virgin soil which their ax cleared and their plough-share tore, in order to sow throughout it wheat for the nations. Not only had they brought with them the republican spirit of independence, sucked in with their mother's milk, the habits of self-reliance and self-rule—habits which from infancy were part of their very being—and their American patriotism, but they were convinced—without much enquiry about Drake's voyages of discovery and England's old treaties with Spain—that their feet stood, not on the soil

[1] In the article already cited from Fisher's Colonial Magazine, the writer says in reference to the settlement on the Wallamette: "By a strange and unpardonable oversight of the local officer of the company, missionaries from the United States were allowed to take religious charge of the population; and these artful men lost no time in introducing such a number of their countrymen as reduced the influence of the small number of original English settlers to complete insignificance." The officer of the Hudson's Bay Company had been guilty of a grave violation of duty because he had not forbidden American missionaries to exercise their high and unselfish calling and these had shown themselves wolves in sheep's clothing because they had drawn after them some of their countrymen as peaceful settlers. This shows how Englishmen were inclined to interpret the "joint occupation."

of a stranger, but on that of home. What Dix gave expression to in the Senate, they felt; however wide, however bare, however wild the distances which stretched between them and the old home, yet they upon the shores of the Pacific had first found the "natural boundaries" of their land and they were not inclined to let the rôle of reluctantly tolerated intruders be forced upon them, because British greed for trade had planted a factory before their doors. It might be quite a while before their time came, but come it must, if England did not transform the establishments of the Hudson's Bay Company into a colony, which should be capable in every respect of entering into the competitions of modern civilized life. And even if England had wished to make the attempt, could it have succeeded? The days of governmental colony-founding were over, and to the individual Englishmen who wandered forth to seek their fortune somewhere, many other localities more full of promise or of sympathy offered themselves.

From still another point of view the colony on the Wallamette paved the way to a change in the condition of affairs. The interest of the Federal government in Oregon necessarily became keener, and assumed a different character when it had no longer to protect only the interests of the Union in a land inhabited only by Indian tribes, but had only to fulfill duties to its own citizens, who had settled there. In 1836, Jackson entrusted Slocum with a more thorough examination of the still almost wholly unknown land. Slocum showed its great worth in a convincing manner in a detailed report, which he laid before Congress, December 18, 1837. In that body, Linn of Missouri, had taken up Floyd's task. February 7, 1838, he introduced into the Senate a bill to organize Oregon as a territory, and to establish on the Columbia a fort and a custom house. The Senate referred the matter to a special committee after Buchanan had fur-

ther pointed out that it did not any longer admit of delay, since the Hudson's Bay Company was building forts, stripping the land of timber, and bringing the Indians under its authority.[1] June 6, Linn submitted in the name of the committee, an exhaustive report[2] which closed with the wish that the President might bring to an issue the controversy over the great territory, the loss of which threatened the Union. The report was accompanied by a bill which authorized the President to use the army and navy to protect the American settlers and their property. January 28, 1839, he laid before the Senate, a petition of the settlers on the Wallamette, dated March 16, 1838, in which the government was besought to take "formal and speedy possession" of the territory.[3] Shortly before this, Cushing, in the name of the committee of foreign affairs, had submitted to the House a report upon Oregon, and had introduced a bill of the same import as Linn's.[4]

Congress was not yet to be persuaded to do more than appoint committees, and receive their reports. But the friends of a policy of action were never weary of bringing the question again before it. And they did not suffer themselves to abate one jot in their demands on account of their many failures, but even proclaimed more loudly the "unquestionable" right of the United States, and even demanded more energetically that notice be given of the termination of the convention of 1818–1827.[5]

[1] Deb. of Congr., XIII., pp. 622, 623.

[2] Niles' Reg., LV., pp. 139–143.

[3] Deb. of Congr., XIII., pp. 735, 736.

[4] January 4, 1839, Niles' Reg., LV., pp. 139–143.

[5] As early as December 29, 1829, Linn moved the following resolutions:

"*Resolved*, That it is in the opinion of the Senate that the title of the United States to the Territory of Oregon is indisputable, and never will be abandoned.

"*Resolved*, That the President of the United States be requested to

The settlers reinforced these exertions by a new petition, which prayed for the organization of a formal territorial government.[1] More impression was perhaps produced by Linn's announcement that the Hudson's Bay Company was beginning to import regular settlers, especially herdsmen.[2] At any rate, a step forward had been taken. While Floyd's recommendations had scarcely been thought worth opposing at first, the majority now excused their inactivity by the plea that it was inopportune to engage in this controversy while negotiations were still pending with England in regard to the northeastern boundary.

When this matter had come to a happy issue, both powers made known their inclination to try now to solve the Oregon problem.[3] It was Tyler's wish to send a special ambassador to England to bring to an issue all still unsettled controversies, and Webster surmised that this mission was to be offered him.[4] The wish did not come to fulfillment, for the English cabinet received the first informal announcement of it very coolly. Yet Tyler would probably not have let it drop immediately, if the debates

give notice to the British Government that the conventions of 1818 and 1827 * * * shall cease in twelve months after such notification." Deb. of Congr., XIV., p. 18.

[1] Senate Doc., 26th Congr., 1st Sess., No. 514, 1840.

[2] January 8, 1841, Deb. of Congr., 14, p. 203. In any event, he had justly recognized the fact that as long as the conventions held good, the decision of the question depended upon which nation supplied the greater number of settlers. This is apparent, because he had already proposed in his resolutions to give 650 acres of land to every white male inhabitant who would cultivate them for five successive years.

[3] Mr. Webster to Mr. Everett, Nov. 28, 1842. Webster's Priv. Corresp., II., p. 153. Curtis, Life of D. Webster, II., p. 173, dates the letter Nov. 25th.

[4] Mr. Webster to Mr. Everett, January 29, 1843. Curtis, Life of D. Webster, II., p. 176. This letter is not in the Priv. Corresp.

in Congress over the Oregon question had not again run through their course without results.

Webster could not be surprised at this, for he thought that the zeal of the leaders of the party of action was an affectation, inasmuch as they were concerned, not so much with Oregon as an end in itself, as with the Oregon question as a means to other ends.[1] It is certainly very possible that at least one party to the controversy was pursuing secondary aims. But if Webster himself, in consequence of the attacks to which he was exposed on account of the Ashburton treaty, had not been a party to the strife, yet the course of the debates in the Senate must have convinced him that a great majority of that body in all honesty ascribed to Oregon a much greater importance than he did. Most of the speakers against Linn's bill declared themselves fully in accord with its aims, and based their opposition to it only upon this: that the bill sought to allure settlers by its promises of land grants, a provision which, in their view, exceeded the powers reserved to the United States by the convention of 1818–1827. The

[1] "This new outbreak of interest and zeal for Oregon has its origin in motives and objects this side the Rocky Mountains. The truth is, there are lovers of agitation; and when most topics of dispute are settled, those which remain are fallen on with new earnestness and avidity. We feel the importance of settling this question if we can, but we fear embarrassments and difficulties. Not, perhaps, so much from the subject itself as from the purposes of men and of parties connected with it. Mr. Calhoun distinguished himself by his support of the late treaty [with England]. You know his position before the country in regard to the approaching election of President. Mr. Benton, as leader of the Van Buren party, or at least of the more violent part of it, is disposed to make war upon everything which Mr. Calhoun supports, and seems much inclined at present to get up an anti-English feeling whenever and wherever possible. You have read his speech on the treaty, written, as is said, after the adjournment of the Senate. In the spirit of his speech he fell upon Oregon." Ibid., II., p. 175.

party of action, on the other hand, rightly saw in this very provision, the soul of the bill.[1] Despite the unanimity of opinion on the general aim, an agreement was therefore impossible, for one side saw in this clause a breach of the treaty, and the other considered the bill useless without it.[2]

Calhoun, in addition to the alleged treaty violation involved, suggested a point of policy. If the matter was pushed to a breach now, the loss of the territory by the United States would be unavoidable, for England could transfer her victorious troops from China to Oregon in six weeks, but the American forces would have to march for six months, if indeed the possibility of leading an army through the unexplored wilderness were admitted. The United States should therefore pursue a policy of "wise and masterly inactivity."[3] And if they did this, then their final possession of the territory would be as certain as the loss of it now; for the tide of population, rolling restlessly and swiftly towards the west, would soon make the gap between Oregon and the States so narrow that all the efforts of England could not overcome the advantage of position of the United States.

[1] Sevier, of Arkansas, said: "He looked upon this as the very life and soul of the bill. Strike out this provision, and you would have no settlers there; but, on the contrary, the country would remain in the possession of the British henceforth and forever." Deb. of Congr., XIV., p. 650.

[2] Contrary to Webster's expectation, the bill was passed in the Senate Feburary 3, 1843, by 24 to 22 votes. Deb. of Congr., 14, p. 689. In the House, on the contrary, Adams, in the name of the Committee on Foreign Affairs, reported it, February 16, with the recommendation that it should not be passed. Ibid., 14, p. 700. Palmerston declared, March 21, 1843, in the House of Commons: "It is possible that the bill may not pass, but if it did pass, and become a law, and was acted on, it would be a declaration of war." It is, however, to be noted that Palmerston was not in the cabinet, but in the opposition.

[3] Calhoun's Works, IV., p. 245.

To the first part of this argument, McDuffie, Calhoun's colleague, said a loud yes and amen, but the second part seemed to him foolish, and full of danger for the future. If the Rocky Mountains could have been swept out of the way by an expenditure of five dollars, he declared that he would not appropriate that sum for such a purpose, for only evil could arise from the unbridled rush of the people into the wilderness: such a dispersing of the population over boundless tracts of land would inevitably lead to semi-barbarism. Nature had happily provided that the tree should not grow into the heavens: the Rocky Mountains were an insurmountable boundary line, and it was simply ludicrous to think that Oregon could ever be a state of the Union. The clear-sighted Carolinian treated as an absurdity Woodbury's remark that, since the employment of steam power, distances would have to be measured with such a measure that a sufficiently close union of Oregon with the rest of the country was no longer to be regarded as a chimera not to be realized. The capacity of expansion of the representative system was enormous, he said, but this dream went far beyond it, and how steam should bring to pass what the representative system could not accomplish, was incomprehensible.

Webster seems to have occupied a position midway between the two Carolinians. He was evidently much more impressed with the difficulty of solving the question than with its importance. He speaks almost slightingly of the territory in his letter of November 28 (25) to Everett,[1] and, it is said, that he was actually ready to give up Ore-

[1] "I doubt whether she [England] can contemplate any considerable colonization in those regions. I doubt exceedingly whether it be an inviting country for agricultural settlers. At present there are not above seven hundred white persons on the whole territory, both sides the river from California to latitude fifty-four, and about twenty thousand Indians."

gon, if England would, in consideration therefor, show an inclination to make concessions in the settling of the boundary of Maine, and the question of the cod fisheries; but that Whitman, the missionary, succeeded in preventing Tyler's concurrence in this plan by promising to lead a caravan overland to Oregon.[1]

How much truth there is in this story can probably never be authentically determined. This, however, is sure, that the discovery of a convenient pass over the Rocky Mountains by John C. Fremont,[2] and the bold and successful journey of a caravan of two hundred wagons under Whitman's leadership, from Missouri to Oregon,[3] made a very deep impression;[4] nay, it might almost be said, decided the question. It was now demonstrated *ad oculos* that the Rocky Mountains by no means relegated to the realm of dreams the thought of a direct alliance between the east and west coasts of the continent; and soon sober, practical men, without asking advice of McDuffie, began with great earnestness to pursue the plan of bring-

[1] W. H. Gray, A History of Oregon, 1792–1849, p. 290, Seqq.

[2] See Fremont's description of it. Niles' Reg., LXV., pp. 138, 139.

[3] A few wagons had already made the journey in 1836 and 1841, but Simpson, the governor of the Hudson's Bay Company, thought that the interests of England demanded that he should deny the fact. Gray, loc. cit., p. 316.

[4] "To this great increase of population, especially in the valley of the Mississippi, may be added the increased facility of reaching the Oregon territory, in consequence of the discovery of the remarkable pass in the Rocky Mountains at the head of the La Platte. These joint causes have had the effect of turning the current of our population towards the territory, and an emigration estimated at not less than one thousand during the last, and fifteen hundred the present year, has flowed into it. The current thus commenced, will no doubt continue to flow with increased volume hereafter. There can, then, be no doubt now * * * that the whole region drained by it [the Columbia] is destined to be peopled by us." Calhoun to Pakenham, Sept. 13, 1844. Calhoun's Work, V., pp. 439, 440.

ing them by steam much nearer together than Boston and Charleston had been at the time of the War of Independence. At the beginning of 1845, Asa Whitney, a merchant just returned from China, laid before Congress the project of a railroad to Oregon, and the petition for the donation of lands to it along its right of way, suggested the means by which the accomplishment of this gigantic work was to be made possible in the future. No American statesman, not bent on political suicide, could venture any longer to let go that part of Oregon to which the United States had unquestionably better claims than England. The time had come when thoughtful men had to put forth their whole energy to restrain public opinion sufficiently to make it content itself even with this. Up to this time a grouping of opinion by geographical lines had been scarcely noticeable, and sober reflection had never let go the rudder: but now the west thrust itself impetuously to the front, acted as if it had an especial call to protect the honor and the interests of the Union on this point, appealed to passion instead of reason, and gave out the watchword: "everything or nothing."[1]

Allen, of Ohio, opened the ball in the Senate, December 28, 1843, with a motion to request the President to submit the instructions on the Oregon question, sent since March 4, 1841, to the American ambassador in London, and the correspondence of the two governments about it.[2] January 8, 1844, Semple, of Illinois, followed this up with a motion to request the President to give notice of the termination of the convention of 1818–1827.[3] Semple's resolution

[1] Atchison, of Missouri, said in the Senate that he had "an abiding reliance upon the deep sense of national honor, and that the people of the United States would not yield an inch of this territory, but would sooner sink the whole together." Niles' Reg., LXVI., p. 12.

[2] Ibid., LXV., p. 273.

[3] Ibid., LXV., p. 314.

was only an anticipation of the result to which Allen's resolution was to lead. There was a wide-spread rumor that the negotiations had been resumed in London, and Allen was out-spoken in saying that his motion was intended to secure the interests and honor of the country against the dangers to which they were exposed in the hands of the Executive. The history of the Ashburton treaty showed, he said, that the Senate ought not to wait in silence until the negotiations were brought to a conclusion.[1] As the Senate had then been compelled to agree to the shameful surrender of part of Maine to England, by the argument that the country was already compromised, and that the ratification of the treaty would be no worse than its rejection, it would be the same now. They had, therefore, best enter on no negotiations at all. For if negotiations were begun, it would be tantamount to an acknowledgment that England might really have a claim to part of the region, but the West, whose voice began to be audible, was determined not to sacrifice an inch of Oregon.[2] The

[1] "The late British treaty should admonish us, sir, that the Senate should act in time, and interfere while negotiations are pending. The impending calamity must be arrested in time."

[2] "The Senate could not permit a treaty for a surrender of territory to be negotiated by the President without their knowledge, because they, as well as the President, were charged with the interests of the country. To submit this matter of our possession of Oregon to a negotiation would imply that there must be some color of right to the British claim, or some ambiguity in our own claim. Why else should it be open to controversy? We lost a part of the territory of Maine the moment we yielded to negotiation, though we had unanimously declared that it belonged of right to us. We agreed to negotiate, and then it became necessary that somebody should pay the cost of a negotiation, and so they split the country in dispute between the two parties. It was the unanimous sentiment of the West—the great West, whose voice was beginning to be heard since the census of 1840—that this territory of Oregon belonged exclusively to the United States and ought to be occupied by us. There was no party there in regard to

spiteful way in which the Ashburton treaty was constantly dragged into the debate showed that now, at any rate, the fiery zeal displayed sprang in part from party interests which had no kind of actual connection with the Oregon question. Thus some Democratic politicians of the East, Buchanan, for instance, spoke in as haughty and defiant tones as their Western colleagues. The most unpleasant point about these speeches was not so much the peacock display and stilted phrases of a somewhat too self-confident and self-pleased Americanism, but the white heat of the patriotism shown; for the smoky cloud which overhung them was unquestionably caused by the fire of demagogism. Archer, of Virginia, the chairman of the Committee on Foreign Affairs, objected that Allen's resolution was intended "to democratize the country."[1] Benton took up arms against this suggestion, fervently, and asserted that the passage of the resolution would simply restore the practice of the good old times of Washington; then the Executive had obtained the views of the Senate before closing important treaties with foreign powers, while now it held whispered consultations with a few Senators in corners and by-ways. This protest, however, did not reach the core of Archer's complaint. Whether the President obtained the advice and consent of the Senate, which the Constitution made necessary, before, during or after any negotiation, was a question of comparatively small significance, which was to be decided by considerations of expediency, and might therefore, perhaps, be decided in

this question. It was the opinion of all—and there was no difference on the subject—that not a foot of land on this continent ought ever to be surrendered by us. * * * Mr. Allen was opposed to ever allowing our right to our own territory to be the subject matter of any negotiation." Ibid., pp. 314, 315.

[1] l. c.

different ways under different circumstances. In any event, the Constitution did not in this particular bind the President to any fixed course of action,[1] and it did not grant the Senate the right of thrusting its advice upon him unasked. It is his part to take the initiative, for the treaty-making power is conferred not upon the Senate but upon him, although it cannot to be fully carried out without the coöperation of the Senate, and communication with other powers and the Union can be carried on only through him.[2] The time when the constitutional coöperation of the Senate shall begin is therefore also left to his judgment. Early in the day, the *Federalist* showed that the national interests would be endanged if this coöperation began too soon.[3] The Senate itself had ever recognized this, for it was always accustomed to insert in its requests for the communication of correspondence with foreign powers the clause: "Unless in the opinion of the President it is contrary to the public interest;" and it will not be asserted that the Senate ought to give its judgment upon a treaty before the proper material for framing a judgment has been laid before it. Even Allen's resolution contained this clause. Its passage would, therefore, have been no formal encroachment upon the prerogative of the President. He could refuse to submit the instructions and the correspondence, and with this the resolution and all its legitimate results would have been disposed of. Yet Archer's complaint was justified, for the spirit of the

[1] Executive Journal, Aug. 11, 1790, pp. 60, 61.

[2] "As the executive head of the nation, the President is made the only legitimate organ of the General Government to open and carry on correspondence or negotiations with foreign nations in matters concerning the interests of the country or its citizens." Durand v. Hollins, Blatch. Rep., IV., p. 451. Bump, Notes of Constitutional Decisions, p. 255.

[3] No. LXIII, Dawson's edition, p. 449

debate involved a new revision of the Constitution after the "demos krateo principle." The mover of the motion and his associates not only passed judgment of condemnation in a matter with regard to which they expected to be informed only as a result of the motion, but they raised the sharpest complaints against the President's exercise of his constitutional powers in this case at all. Yet, apart from this, the objection, in the light of the whole previous history of the question, was simply monstrous in its absurdity. The significance of the whole proceeding lay not at all in any danger that the extremists might force through their policy, but precisely in the "democratizing" which Archer censured, and of which they were guilty.

The Constitution had made the Senate the advisory council of the President, and the *Federalist* had based this choice mainly upon the fact that the longer official term of the Senators would ensure greater familiarity with the matters concerned, and that the secrecy of the negotiations would be better kept than in the House, which was more numerous and more subject to the influences of the day. The Senate recognized the importance of the second reason by always holding its so-called executive sessions with closed doors; and, although the ultra-Democratic doctrinarianism had at first taken some exception to this, its objection had long ago been hushed. But now, without any need, and, indeed, without any excuse, a question of foreign politics, which might readily conjure up a fearful war, was discussed before crowded galleries with reckless and unrestrained passion. Certainly Rives was right when he said that it was an unprecedented proceeding thus to spread all one's cards before one's adversary.[1] But this was the

[1] "This was not the time, nor was this the forum, for such discussion. It had appeared to him from the beginning that the whole debate had been eminently inopportune, inappropriate and imprudent;

least objection. It was a much more important fact that the debate, whether this or that individual participant so intended or not, was an appeal to the multitude. The eminently conservative character of the Constitution, at bottom, has nowhere found distincter expression than in regard to the treaty-making power. It had done all that was possible to protect the people from the control of high political questions by an adventurous spirit. And now such questions were pulled out into the market place by Senators and discussed with arguments which take on the public square. These men are not be blamed if the Oregon question was not solved after the fashion in the market place. And although, finally, statesmanlike reflection bore away the victory over the clenched fist of passion, yet the demagogues had caused sufficient mischief to be able to say that they had not strained their lungs in vain. He who plays with knives must expect sometimes to take hold by the blade instead of the handle. If the "sovereign people" should once acquire a taste for deciding important questions of foreign policy by its outcry, this taste could easily be turned to account in other ways.

Allen's and Semple's resolutions had no immediate results. Allen's motion was rendered practically purposeless by Archer's announcement that no negotiations were

and such as was wholly without precedent in the annals of any civilized government on earth. What a spectacle had this chamber exhibited for weeks past! Had not the members of this body assumed to negotiate between this Government and foreign powers? Had they not presented the novel sight of fifty-two plenipotentiaries discussing delicate questions of diplomacy with one of the greatest powers of the world? While, all the while, the British ambassador sat snugly in his cabinet, and read and contemplated all their arrangements and opinions, and cautiously guarded his own. It was a very unequal game, and such as never had been played before in the diplomatic history of the world." Niles' Reg., LXVI., p. 59

being carried on at London and, on the 21st of March, Semple's resolution was defeated by 28 to 18 votes.

Meanwhile the negotiations had been again resumed at Washington. Packenham's first suggestion to this end had been without result, on account of Upshur's sudden death. They were begun in July. Packenham and Calhoun again recited everything which could be said for the claims of their respective countries. There was nothing new to bring forward and the old naturally made no deeper impression now than before. The trouble might have been spared. For either to argue the other out of the standpoint once adopted, was and continued to be impossible. But neither side wished the continuance of the *status quo*, and still less was either charmed with the idea of making war for the sake of Oregon. In some way or other, a settlement had to be reached. The difficulty not to be overcome was now, as it had formerly been, England's refusal to surrender her joint ownership on the Columbia.[1] But the hope that the United States would voluntarily accept the river as a boundary had finally to be given up. England resolved, therefore, to propose the only method which still offered her a chance of obtaining, in a friendly way, the exclusive possession of the region to the right bank of the river. January 15, 1845, Packenham informed Calhoun that he was authorized, in order to hasten matters, to propose a decision by arbitration. January 21, Calhoun declined the proposition, in the name of the President, with the remark that it did not seem advisable to seek a new way as long as there could be any hope of reaching the goal by the path already entered upon.[2]

This was the condition of affairs when Polk entered

[1] The United States had already declared themselves prepared to guarantee her free passage of ships upon the river.

[2] Sen. Doc., 29th Cong., 1st Session, 1845–46, Vol. I., No. I., p. 162.

office. England might therefore fairly be surprised that the first word of the new President seemed to draw a heavy line through all negotiations; for why should she negotiate, if the minimum of the American demands was the surrender of all her claims? For thus was the declaration made in the inaugural address generally understood in England as well as in the United States, and yet Lord Aberdeen expressed in the House of Lords, April 4, 1845, his firm confidence that the question would be peaceably settled.[1] It does not need to be said that in saying so he was not thinking of a surrender of all Oregon. He may have believed that the President upon closer consideration would think of some better plan, or he may have expected that the majority of Congress and of the people would disavow him. There was still a third chance for the realization of his hope. Perhaps Polk only wished to direct all eyes to the mighty fist which he shook towards the east, in order to be able to fetch a blow in the west, unobserved. This feint was indeed not unknown in the history of politics, and it needed neither an unwonted sharpsightedness nor an exaggerated distrust, in order to be led, by the history of the Texas question, to the supposition that it was not beyond the range of possibility that such thoughts were harbored in the White House.

[1] "My lords, from what I have said, your lordships will perceive an earnest of the spirit of peace which shall pervade this matter, if I continue to conduct this negotiation; and I cannot bring myself to think that at this day any civilized government would desire to see any other course pursued; and I hope, therefore, and fully believe that we shall have the happiness of seeing this important question brought to a satisfactory and amicable conclusion." Niles' Reg., LXVIII., pp. 113, 114.

CHAPTER III.

TEXAS.

Tyler's adherents, among the politicians as among the people, were so few in number, that the late "accidental president" could be safely ill-treated in every way, and to any extent. Not only the Whigs, whose way he had crossed, but also the Democrats to whom he had done so many and great favors, used him as a scape-goat, upon whom everything which they wished to let slip from their own shoulders, might safely be laid. Thus he had to bear the whole responsibility for the fact that Texas was incorporated into the Union, upon the basis of the "joint resolution," and not by means of a treaty, as the little group of Senators who decided the result had wished, and had regarded as promised. From the premise that Tyler had usurped the power of decision, with which Congress intended to trust his successor,[1] it was argued that Polk had had no choice, and it was further suggested, or indeed, directly asserted, that Polk would have invited Texas to enter into negotiations for a treaty of annexation if, Tyler had not tied his hands.

[1] The Globe wrote: "To the chief magistrate chosen by the people with an especial eye to this question, alone, it is notorious the discretion confided in the act of Congress was intended to apply. It is clear that as Mr. Tyler began his presidential career in virtue of an accident, that he meant to take the benefit of the whole chapter of accidents, to blend himself with results having their origin in the counsels of Generals Jackson and Houston, and which his inauspicious management has so far marred in their progress." Niles' Reg., LXVIII., p. 16.

In all this only one thing was true, and that was that Tyler had been guilty of a breach of trust. Polk expressly declared, in his first annual message, that he had approved Tyler's choice,[1] and it appears from Buchanan's instructions of March 10, 1845,[2] to Donelson, the *chargé d'affaires*, that his reasons for this resolve were the same as those which actuated Tyler. According to his own testimony, therefore, Polk is just as responsible as Tyler for the choice of a method of annexation, which, according to the opinion of the first jurists in the country, of a large minority of the House of Representatives, and of the majority of the people and the Senate, was unconstitutional. And this responsibility was the greater because Congress, despite the "joint resolution," had not intended to leave a choice open to either Polk or Tyler; for that resolution had, as we know, received a majority in the Senate upon the supposition that the President would waive the liberty of decision it secured him, and would endeavor to negotiate a new treaty with Texas, and submit it to the Senate for its constitutional approval. But in the case of Polk, this supposition was much better grounded than it had been in regard to the much-reviled Tyler. Polk was guilty, not only of betraying the trust reposed in him, but of breaking a formal promise as well. A letter of Francis P. Blair to Senator Tappan, of Ohio, dated July 7, 1848, and a letter of Tappan to the *New York Evening Post*, dated July 21, 1848, exposed the President's guilt. Both declared, and called many other persons of equal weight to witness, that Polk had definitely promised to try to negotiate a treaty, when he was informed

[1] "This election I approved, and accordingly the chargé d'affaires of the United States in Texas, under instructions of the tenth of March, 1845, presented these sections of the resolution for the acceptance of that republic." Statesm.'s Man., III., pp. 1555, 1556.

[2] Niles' Reg., LXIX., p. 282.

that the resolution of the House, on the Walker-Brown plan, which was coupled with Benton's bill, could obtain a majority in the Senate only upon this condition. Blair added, moreover, that when the Senate did not take immediate action upon the nomination of Bancroft, as Secretary of the Navy, Polk had urged on Senator Dix, of New York, to hasten the matter, by declaring that immediately after the formation of his cabinet, he would recall the messenger who was on his way to Texas with Tyler's proposals.[1]

[1] In Blair's letters we read: "I complied [with the request of Brown, of Tennessee, to undertake to mediate between Polk and those Democratic Senators who were at first unwilling to vote for the resolution of the House], and after several interviews with Messrs. Haywood, Dix, Benton and others (Mr. Allen, of Ohio, using his influence in the same direction), finding that the two plans could be coupled and carried, if it were understood that the pacific project was first to be tried, I consulted the President-elect on the subject.

"In the conference I had with him, he gave me full assurance that he would appoint a commission, as contemplated in the bill prepared by Col. Benton, if passed in conjunction with the House resolution as an alternative. In the course of my conversation with Mr. Polk, I told him that the friends of this plan were solicitous that the commission should be filled by distinguished men of both parties, and that Colonel Benton had mentioned to me the names of Crittenden and Wright, as of the class from which it should be formed. Mr. Polk responded, by declaring with an emphasis, 'that the first men of the country should fill the commission.' I communicated the result of this interview to Messrs. Benton, Dix, Haywood, etc. The two last met, on appointment, to adapt the phraseology of Benton's bill, to suit as an alternative for the resolution of the House, and it was passed, after a very general understanding of the course which the measure was to take.

"Both Messrs. Dix and Haywood told me they had interviews with Mr. Polk on the subject of the communication I had reported to them from him, and they were confirmed by his immediate assurance in pursuing the course which they had resolved on in consequence of my representation of his purpose in regard to the point on which their action depended. After the law was passed, and Mr. Polk inaugurated, he applied to Gen. Dix (as I am informed by the latter), to urge the Senate to act upon one of the suspended cabinet appointments, saying that he wished his administration organized immediately, as he intended

As far as I know, these statements have never been stigmatized as malicious insinuations and calumnies. Polk's silence admitted their truth. But what happened between the 4th and 10th of March, which could in the least excuse his breaking his pledged word? Nothing can be discovered which can serve as a reason for a change in his intentions. What remains, except the supposition that he intended from the beginning to deceive the Senators whose votes could have been won only by his promise? But were they in a position to stride forth as the champions of virtuous indignation, and cast a stone at him? Whence had they, sworn to obey the Constitution, drawn the right upon Polk's secret promise to make no use of his privilege, to authorize the President to do what, in their opinion, was unquestionably unconstitutional? That upon such guarantees the President should be authorized by Con-

the instant recall of the messenger understood to have been dispatched by Mr. Tyler, and to revoke his orders given in the last moments of his power, to thwart the design of Congress in affording him (Mr Polk) the means of instituting a negotiation, with a view of bringing Texas peaceably into the Union."

Tappan writes: "One difficulty remained [after they thought they had made sure of Tyler], and that was the danger of putting it into the power of Mr. Polk to submit the House resolution to Texas. We understood, indeed, that he intended to submit the Senate proposition to that government; but, without being satisfied that he would do this, I would not vote for the resolution, and it was well ascertained that, without my vote, it could not pass. Mr. Haywood, who had voted with me, and was opposed to the House resolution, undertook to converse with Mr. Polk on the subject, and did so. He afterwards told me that he was authorized by Mr. Polk to say to myself and other Senators, that, if we could pass the resolution with the amendment proposed to be made, he would not use the House resolution, but would submit the Senate amendment as the sole proposition to Texas. Upon this assurance I voted for the amendment moved by Mr. Walker, containing the substance of Mr. Benton's bill, and voted for the resolution as it now stands on the statute book." Both letters are printed in full in Niles' Reg., LXXIV., p. 106.

gress to violate the Constitution was a far greater crime against the commonwealth than the breaking of a secret compact which had not the least legal force. Polk had dishonored himself, but these Senators had laid violent hands upon the very foundations of the Republic in their deliberate and avowed mockery of the Constitution. A statesman in a Republic can commit no greater political sin than to proclaim and follow as a principle the theory that the fundamental law of the State must yield to political expediency.[1] The greatest political virtue, for Americans, is their maintenance of the principle of the unconditional supremacy of the law. They have this to thank, not only for the happy escape from, and avoidance of, the many errors, crimes and mistakes, as well as the restoration of the Union, after its dissolution; but in this lies the key to the secret of the possible existence of this colossal federative Republic. The "joint resolution" was, therefore, a more dangerous attempt against the Republic than the increase of the territory sacred to slavery, and the responsibility for this evidently lies heaviest upon these Senators. For the other Senators and the Representatives who voted for the resolution, at least could not be convicted out of their own mouths, with having consciously violated the Constitution. And the former have the less claim to a kindly judgment, because even Polk's breach of faith did not bring them to a recognition of their crime. Tappan alone spoke, and he did so for the first time, when his speech could only brand Polk, but could do nothing for the Republic. Party considerations had kept him and Blair silent for more than three years. If they had spoken at

[1] If the existence of the State is at stake, the iron law of necessity must prevail, whether or no. I do not speak of such a condition of affairs, for then there is no question of free will. Facts then shove the Constitution aside.

once, many an evil and many a shame might, perhaps, have been spared the country, for numberless patriotic eyes would have followed with threefold watchfulness and care, every phase of the policy of the man who had added to the Kane letter this new illustration of the laxity of his political conscience.

Polk's private character compels us to suppose that he would not have deceived the Senators, in whose hands lay the fate of the "joint resolution," if he had not thought that the fate of the annexation project depended upon this. Much could certainly have been said in favor of this view. The situation had not changed between the 4th and 10th of March, but for some time past matters in Texas had been in such a condition that the well-informed annexationists had reason to to be anxious about the success of their plans. Public opinion in the United States had regarded the passage of the "joint resolution" as a practical settlement of the whole question, for it was considered a matter of course that Texas would most joyfully agree to anything in order to be admitted into the Union. This was, however, no longer entirely true.

The rejection of the Calhoun treaty on June 8, 1844, had made Texas doubt whether she could hope for annexation in the near future. This question, therefore, yielded to the desire to finally ensure herself peace. In January, 1845, Ashbel Smith, who was now Secretary of State, had had a private unofficial conversation with Arrangoiz, the Mexican Consul-General at New Orleans, by which he became convinced that Mexico was now ready to recognize the independence of Texas.[1] And, in fact, a reasonable feeling prevailed in Mexico at the time. Herrera's

[1] "I left satisfied that Mexico would make peace on the basis of independence." Reminiscences of the Texas Republic, p. 66.

election to the Presidency showed that the stand-point of the stubborn *nonpossumus* had finally been given up.[1] The renewal of the question of annexation produced no revulsion of feeling, but rather strengthened the peaceful tendencies of Mexico. Many people who would have still gladly made themselves and others believe that they were as firmly convinced as ever of the final subjugation of the "rebellious province," allowed the fear of seeing it fall into the hands of the United States, to wring from their haughty Spanish pride the reluctant confession that Texas was lost forever. It was hard for them, indeed, to recognize this before the world, but it was less hard than to allow the United States, a country even more hated than feared, to carry off the booty.

Similar considerations spurred on both England and France with redoubled energy to make a new attempt at mediation. They prudently avoided injuring the sensibility of either of the two states by the proposal of definite conditions;[2] but their representations were the more pressing, inasmuch as the unconditional annexationists of Texas, incited thereto, as Ashbel Smith asserts, by the United States, were urging a renewal of hostilities against Mexico, in order to prevent a failure of annexation through the conclusion of a treaty of peace.[3]

[1] "General Herrera—who had succeeded the former chieftain in the Presidency of Mexico—was very favorably disposed to peace; indeed, he had come into power on that account." Anson Jones to H. Stuart, Nov. 13, 1847. Niles' Reg., LXXIII., p. 309.

[2] * * * "No terms or conditions have ever been proposed by the two governments in question, or either of them, as the consideration of their friendly interposition." Proclamation of Anson Jones, June 4, 1845. Niles' Reg., LXVII., p. 259.

[3] "It was among these schemes to renew active hostilities against Mexico by sending forward the militia of Texas to operate on the Rio Grande frontier. In this resumption of hostilities there was neither military plan, nor means, nor capable head, nor reasonable object. Its

These apprehensions of the extreme American party were not wholly ungrounded. A number of the men whom Texas had especially to thank for the success of her revolution, were deeply disgusted with having had their country repeatedly, and in vain, knock at the door and beg for admission. For nine years, they had maintained the independence of the republic; they had nothing to fear in this regard from Mexico; the powers of western Europe constantly took a livelier interest in their fate; the finances of the State were in good condition in comparison with the circumstances of earlier years, and the national credit was increasing. They, therefore, doubted no longer the possibility of a national existence, and they felt so strongly that they were Texans, that they considered it a bitter disgrace to be treated by the United States as poor country cousins, whom it could keep waiting its pleasure in an ante-chamber while they offered it a royal realm as a gift. The passage of the "joint resolution" brought about a change of opinion only among a part of the dissatisfied. The party of ex-president Lamar, which had, for a time, been decidedly in favor of an independent Texas, stood at last in the foremost rank of the unconditional annexationists. But the victor of San Jacinto, who was still the most influential man in the country, greeted the idea by no means with unmixed joy. It was not true that

purpose was by exasperating Mexico to destroy the prospects of peace. For if peace with Mexico were tendered, these politicians * * * feared the people would embrace it. This project seems to have originated in the United States east of the Sabine; for after the passage of the annexation resolutions by the American Congress, the same policy of sending the Texas militia to the Rio Grande was vehemently urged on President Jones by the agents of the administration at Washington. Its purpose was to provoke Mexico to strike the first blow in the war which was deemed not improbable to grow out of annexation." Ashbel Smith, l. c., pp. 66, 67.

Houston was now entirely opposed to annexation, however boldly this was asserted upon every side.[1] In a speech which he delivered at New Orleans, May 28, he declared himself still in favor of annexation, for which he had labored so long and so earnestly, but he objected emphatically to the way in which the question had been treated by the United States.[2] The tone of this speech was, it is true, accommodated to the public, before whom it was delivered; but the orator gave, in the main, a truthful picture of the views he himself represented in Texas, though the colors were as much as possible subdued. Both his complaints and his demands had been much more tersely and sharply put, in a letter which he had sent, April 9th, to the American *chargé d'affaires*, Donelson. In his opinion the dignity of Texas, as an independent state, required that annexation should be brought about by treaty. He saw an injurious pretension in the idea that Texas, which, as he thought, was making the greater sacrifice, should suffer the conditions of annexation to be entirely determined by the United States. He had, moreover, many objections to make to these conditions. These objections could be obviated if commissioners were appointed, in accordance with the Walker amendment, to negotiate terms. Only in this way could Texas assure herself a fair return for what she offered the United States, while under the present plan, she must pay with her public buildings, fortifications, ships, etc., a price for her "humiliation." The United States would certainly benefit by annexation, but whether or no, Texas could find her reckoning in it, time alone could tell.[3]

[1] "We learn that General Houston has at last openly declared himself against annexation." *The Madisonian*, April 23, 1845.

[2] Niles' Reg., LXVIII., p. 230.

[3] "By assuming the amendment as a basis, many objections can be obviated; and by negotiations, terms less exceptionable may be

According to Ashbel Smith, Houston advised President Jones to insist upon annexation by treaty for still another reason, to-wit, that treaties can be abrogated.[1] It goes without saying that he did not state this reason in his letter to Donelson, but it would have been interesting and, perhaps, attended with significant results if it had been publicly discussed, and Calhoun and his school had seen themselves forced thereby to declare their views, in this concrete case, upon such an application of their doctrines of state sovereignty.[2]

President Jones, in the main, shared Houston's views, although he afterwards denied this with an affectation of virtuous indignation, and claimed for himself most of the credit for the accomplishment of annexation.[3] Yet it

adopted. * * * By the action proposed in Mr. Brown's resolutions Texas is denied all option as to the mode of annexation, and is driven into servile submission, and is required to pay a price for her humiliation. * * * Annexation would certainly be beneficial to the United States. On the part of Texas, it is an experiment, which I pray God, if it takes place, may result in enduring happiness and prosperity to a united community." Niles' Reg., LXXV., pp. 297, 298. Before the passage of the "joint resolution," he seems to have felt still more irritated with the United States. Ashbel Smith tells us that in February, 1845, before his departure for eastern Texas, he said: "I have come to leave Houston's last words with you. If the Congress of the United States shall not, by the fourth of March, pass some measure of annexation which Texas can with honor accede to Houston will take the stump against annexation for all time to come." Reminiscences of the Texas Republic, p. 70.

[1] "General Houston once told me that he advised Mr. Jones to insist on the mode by treaty, as it is among the incidents of a treaty that it can be abrogated." Ibid., p. 71.

[2] In the second year of the civil war two French consuls were expelled from the territory of the Confederate States, on account of an attempt to foment an intrigue for the restoration of the independence of Texas. North American Review, 1879, pp. 349, 350. Napoleon and the Southern Confederacy.

[3] "If ever annexation should go out of favor in Texas, (which I hope may never be the case,) my enemies, I fear, will be then able to

was thought that he took a more unyielding position on the question than Houston,[1] and his own Secretary of State considered this opinion well grounded.[2] But he could not act as freely as Houston, in accordance with his personal convictions and wishes. The decision belonged not to him, but to the people. No one could forbid his expressing his opinion, as a man and as a citizen, without reserve, but it was not permissible for him to exert the influence of his office in favor of either party. It was his duty as President to take care that the people expressed their own real opinion, and not an artfully manufactured one, upon the question as to whether the republic should maintain or surrender its separate existence. He did this with tact, with honor, and with praiseworthy energy. He said, and with reason, that he would do only half his duty if he idly folded his hands and let events take their own course. It was at least possible, that the majority of the people would be opposed to annexation, either *in toto* or under the proposed conditions. It was, therefore, necessary to protect the interests of the Republic, in this event. And by doing so, he put the State, for the first time, in such a condition that a perfectly free choice was ensured her. While he played off the United States against Mexico, he obtained from the latter a concession

prove that but for me it would never have taken place, and that I was always its devoted friend." Anson Jones to H. Stuart, Nov. 13, 1847. Niles' Reg., LXXIII., p. 311.

[1] "Anson Jones * * * is the candidate [for the presidency] of the anti-annexationists." Niles' Reg., LXVII., p. 19, Sept. 14, 1844. So likewise the *New Orleans Crescent* declared that he was opposed to annexation. The *Madisonian* of the 24th of March, 1845, reported that the Texan papers devoted to Jones spoke doubtingly of the acceptation of the conditions laid down in the joint resolutions.

[2] "I was clearly of the belief that he would have preferred independence to annexation." Ashbel Smith, l. c., p. 81.

which made it possible for his people to vote upon the proposals of the United States, without being oppressed by fear of an eternal border warfare with Mexico.

The offered intermediation of England and France had been readily accepted by Jones. Texas taking the first step was a concession to Mexican pride. March 29, Ashbel Smith signed the preliminary treaty of peace.[1] Mexico recognized the independence of Texas; Texas pledged herself not to annex or be annexed to any other state; boundaries and other particular matters were to be settled in the final treaty; Texas pledged herself to allow territorial disputes and other differences to be decided by arbitration,[2]— these were the binding stipulations of the instrument which the English envoy, Captain Elliott,[3] submitted to the Mexican government. Don Luis G. Cuevas, the Secretary of State, transmitted it to the Mexican Congress, April 21, with the recommendation that it be approved.[4] The Congress agreed to this by a large majority.[5] May 20, Baron Alleye de Ciprey, the French envoy, was able to write President Jones that Mexico had agreed to the preliminary treaty the day before.

When this letter came into Jones' hands, June 2, he had already called the Texan Congress together, that it might pass upon the annexation resolutions. A proclamation, issued June 4, informed the people of the conclusion of

[1] Exec. Doc. 29th Congr., 1st Sess., Vol. I., No. II., p. 70. It is also given in Niles' Reg., LXVIII., p. 274, but it is there dated March 27.

[2] In connection with later events, the wording of Arts. III. and IV. may find a place here. "3—Limits and other conditions to be a matter of arrangement in the final treaty. 4—Texas will be willing to remit disputed points respecting territory and other matters to the arbitration of umpires."

[3] I find the name also written Elliot.

[4] Niles' Reg., LXVIII., p. 204.

[5] Ibid., LXVIII., pp. 193, 275.

the preliminary peace and of the cessation of hostilities.[1] June 16, when the Congress met, both roads lay free and clear before it. It showed its choice in a way which did not permit the most skeptical to doubt any longer the wisdom of those who had always treated the question of annexation as if everything depended upon the United States alone, because Texas would refuse under no circumstances, to enter if the door were opened to her. Those persons, indeed, who had demanded more favorable conditions, or had indulged in sweet dreams of the future might of an independent Texas, had been playing no comedy. But as Americans they had become Texans, and they had enjoyed a separate political existence far too short a time to allow a distinct Texan patriotism to develop itself sufficiently to outweigh their inborn American patriotism. They reasoned more or less calmly, as long as their argument bound them to nothing, but when a decision had to be made, they followed their feelings without an instant's delay.

The peace hitherto so generally and earnestly longed for, was rejected by the Senate, unanimously, June 21. June 23, both houses adopted the annexation-resolutions unanimously, and on the same day Jones gave them his approval.[2] Congress and the President, however, had not the power to legislate the state out of existence. The question came, July 4, before a convention chosen by the people expressly for the decision of this point. It voted for annexation with but one dissenting voice.[3]

It was to be expected that such an overwhelming triumph of the annexationists would have excited some surprise in Texas herself, as well as in the United States. This was

[1] Niles' Reg., LXVIII., pp. 258, 259.

[2] Exec. Doc. 29th Congr., 1st Sess., Vol. I., No. II., p. 76.

[3] Niles' Reg., LXVII., pp. 337–344. Among the fifty-five names of the convention there occurs one Spanish name.

not the case, although such a result had been far from being expected, at the beginning, by either party. It was just this fact that brought it about. The annexationists' fear of seeing the prize slip out of their hands, when, after such long exertion, they had reached the goal, incited them to their utmost endeavors. They were not squeamish in their methods. "British gold," the phrase which had already so often been of priceless service to demogogues and shameless partisans in fighting their opponents, was again made the war-cry.[1] The man who did not join their ranks with a hurrah and huzza had been bought by England: this was so clear that it needed no further proof whatever. Neither office and reputation nor public services were a shield against such abuse. On the contrary, the higher the position and the greater the repute of the opponent, the hotter the battery-fire of low insinuations and scandalous assertions. The artillerymen knew as well as the victim himself that the guns were loaded with empty lies. But the end, forsooth, justifies the means. And if the end were attained, the people would be ready to raise again upon the shield this or that most reviled leader, and to assign him a still more honorable place than before in the calendar of the saints of the republic. How could it trouble Houston much to be denounced now as a British hireling[2] and a traitor to the state which his victory had

[1] "President Jones together with the minister of Texas to Great Britain, was charged with being in a plot to sell Texas to Great Britain for gold. And 'British gold' was mouthed as briskly as if they who did so had seen it counted out." Ashbel Smith, l. c., pp. 74, 75.

[2] "Most deeply do we regret to hear that Houston * * * is now 'heading the English party.'" The *Richmond Enquirer*, March 28, 1845.

"We have already furnished incontestable evidence that British policy has so far prevailed in Texas that her Britannic Majesty's charge (sic) has obtained a pledge from Ex-President Houston to use his utmost

called into being, if he should immediately thereafter be sent to Washington as a senator?

In the political life of the United States, men generally soon gain an indifference, very surprising at first, to a European, to rotten apples and bad eggs, partly because their political friends always hold ready a little bottle of perfume, which they do not use penuriously, and partly because everyone knows that nine-tenths of the rotten apples and bad eggs are skillfully manufactured for campaign purposes only. The radical annexationists could, therefore, scarcely have expected to drive Houston, Smith, Jones, *et al.*, from their course with these weapons, which were only used to frighten back that part of the populace which was perhaps inclined to follow its old leaders: and this result was reached by blows in the air. Threats might make a greater impression upon the President and his cabinet.[1] It appears, at any rate, not incredible that an attempt would have been made to overthrow the administration, in case this had been thought the only way of reaching the goal. There was no lack of adventurers and Catilines in Texas, and they would have been the more easily induced to make such an attempt, because they thought war with Mexico would unavoidably result from annexation, and, in their uncritical fancy, a war with Mexico was regarded as a jolly brigandage, in which a courageous fellow would not lack adventures, heroic deeds, and booty. And the persons who could make such elements a power would have been found. Party distinctions had long since been fully established in

endeavors against annexation." The *Galveston Weekly News*, March 1, 1845. Niles' Reg., LXVIII., p. 51.

"The subsidized *New Orleans Picayune* charged General Houston with 'treason, bribery, and corruption'." Ashbel Smith, l. c., p. 74.

[1] The Attorney-General, Ebenezer Allen, was one of the most determined opponents of annexation.

Texas. There were many excellent and esteemed men in the opposition, and some of them were among the heroes of San Jacinto. If peace with Mexico were concluded upon the basis of the preliminary treaty of March 29, they would sit for an indefinite time upon the opposition benches, and have to relinquish the honors, as well as the loaves and and fishes, to the party led by Houston and Jones; but if they carried through annexation, more or less against the wishes of these men, they thought they could expect power to fall into their hands in the new state, and could hope for a distribution among themselves of the part of the federal patronage belonging to Texas.

The latter hope was based upon very definite promises. The official and unofficial representatives of the federal government, by whom the whole agitation was guided, paid every influential man with this cheap coin in the most lavish way.[1] Whatever exaggerated pictures of the size of Uncle Sam's pocket might be drawn, it was impossible to argue to the people that there would be a present in it for each one of them in the shape of a nice little office. In Washington, however, it was thought necessary to dangle a glittering lure before all. The agents of the

[1] Ashbel Smith: "I have the authority of the late Honorable Ebenzer Allen, successively Attorney-General and Secretary of State under President Anson Jones, for the fact that General Wickliff and Commodore Stockton were employed on the same mission of scattering promises broadcast throughout the land. Public opinion was rapidly manufactured. Public meetings were called by active partisans and at the instigation often of the gentlemen just named; the magnificent promises were unfolded; suspicions were aroused and practiced on; the people were inflamed, * * * the administration agents just mentioned were unstinted in promises, addressed directly to active politicians who were deemed approachable, and indirectly to gentlemen whom it would not have been discreet to approach in such style, of appointment to office by the federal administration as soon as Texas should be a state and themselves citizens of the United States." l. c., pp. 76, 77.

administration could not find words to express the beautiful things Texas would receive through annexation. Not only were public buildings and enterprises and works, all of which were unquestionably within the powers of the federal government, designed on the most magnificent scale and painted in the most brilliant colors, but in the domain of "internal improvements" a comprehensive activity was promised as confidently as though the federal powers in this respect had never been questioned.[1] This was the more remarkable as there sat in the presidential chair a man who had such rigid views upon this very question, that he had brought upon himself the fierce wrath of many members of his own party, especially in the West. This, however, by no means compels us to assume that the agents exceeded their instructions. President Jones, in his message of June 16, called the especial attention of the Texan Con-

[1] Smith says L. C.: "Major Donelson, the regularly accredited minister, and other official agents sent to Texas by the administration of President Polk, were most lavish of their averments of what the federal government would do for Texas so soon as the consummation of annexation would enable them to execute their promises. Among the most distinguished of these official agents were Ex-Governor Yell, of Arkansas, General Wickliff, of Kentucky, Commodore Stockton, of the United States navy. The promises were among others to clear out our rivers for navigation, to deepen the entrances of our harbors, to build light-houses on our coast for commerce, to erect military works, fortifications for the defense of the coast, to execute important works of internal improvement, and to do various and sundry other good things for Texas which were beyond our means, or which they could do for us better than we ourselves could. * * * It would afford the administration at Washington its chiefest pleasure to do in one word all goodly things for us. I can vouch for these facts. They are known to me of personal knowledge. Major Donelson and Gov. Yell expatiated on these promises in my hearing. I know that both these gentlemen were accredited from Washington city." He adds not wholly without bitterness: "I need not stop here * * * to say that neither the promises of office to individuals * * nor the promises of generosity and munificence to Texas, have in aught or in any degree been fulfilled."

gress to the fact that the assurances given by the Washington agents in Polk's name made the annexation resolutions far more acceptable to Texas than they had been at first.[1] My view of the affair is here stated, in a formal, official declaration, in a way which allows absolutely no doubt of its truth.

In what constitutional provision or in what law did Polk find his authority for modifying and enlarging, by promises, the conditions of annexation fixed by Congress? He never found it necessary to answer this question. But it is far worse that Congress and public opinion never found it necessary to put it in such a way that he would have had to answer it. It was asked only by individuals and in whispers, so that it could safely be left wholly unanswered. But if the President could so deal with the annexation resolutions, in one regard, why could he not do the same in another, which would perhaps prepare far greater embarrassments for the Union and conjure up serious dangers? The history of the development of the republic had reached a critical turning-point, if its first officer, to whom the constitution expressly and most solemnly entrusted the maintenance of the supremacy of the law, with audacious hand, moulded the law like a bit of wax, in accordance with his idea of the demands of political expedience, and the people took no notice of his act.

[1] "The executive has much satisfaction in observing—what, no doubt, will forcibly arrest the attention of the Congress—that, although the terms embraced in the resolutions of the United States Congress may at first have appeared less favorable than was desirable for Texas, the very liberal and magnanimous views entertained by the President of the United States towards Texas, and the promises made through the representatives of that country, in regard to the future advantages to be extended to her if she consents to the proposed union, render those terms much more acceptable than they would otherwise have been." Niles' Reg., LXVIII., p. 275.

CHAPTER IV.

POLK WEAVES THE WARP OF THE MEXICAN WAR.

Three weeks after the passage of the resolutions of annexation, the War Department instructed General Zachary Taylor, then stationed in Louisiana, to hold part of his troops in readiness for an expedition into Texas. May 28, 1845, the Secretary of War informed him, that Texas would in all probability shortly accept the conditions of annexation, and that the President would then consider her a component part of the United States, or sufficiently so to have a claim to protection against invasion by foreign powers and Indian incursions. Taylor was, therefore, to post the troops, then or thereafter, at his command, in such a way as to insure the promptest and most effective protection to Texas. In order to suppress any hostilities on the part of the Indians, it would, however, probably suffice to cross the Sabine or Red river, with the troops designated in the instructions already mentioned, of March twenty-first.[1] It was thus only in view of a possible invasion, that the President considered it proper to go beyond those instructions, and to take into consideration the strengthening of Taylor's fighting force.

Was there any real reason for anxiety lest Mexico should answer annexation with an invasion? If one confined himself simply to Mexico's emphatic declarations, this could appear by no means doubtful. The Mexican Government had repeatedly, without any sort of qualification, signified to

[1] Exec. Doc., 30th Congr., 1st Sess., No. 60, pp. 79–81.

the United States that it would consider the annexation of Texas as a declaration of war. Almonte had at once (March 6), protested against the "joint resolution," and demanded his passports. March 28, Cuevas, the Minister of Foreign Affairs, acquainted the American ambassador, W. Shannon, with the rupture of diplomatic relations between the two countries.[1] When Shannon returned a written answer, he was informed that no further relations of any kind could be held with him. June 4, Herrera issued a proclamation, which asserted that it was evidently Mexico's right to oppose annexation, up to the last moment, with all the strength at her command, and announced the determination of the government to put into the field the whole armed force of the country.[2] July 12, the Minister of War, Garcia Conde, declared in a circular-letter, that the government had decided upon a declaration of war against the United States,[3] and four days later he spoke of the war as a fact already in existence.[4] A later report of Cuevas (July 20), to the Chamber of Deputies spoke, however, only of the resolve of the government to declare war, and proposed that this should be carried out, if the annexation was accomplished, or if United States troops should enter the territory of the Republic.[5]

[1] Niles' Reg., LXVIII., p. 134.

[2] "The government will call to arms all the forces of the army, and will raise the corps specified by said decree (Dec. 9, 1844), under the name of 'Defenders of the Independence and the Laws.'" The proclamation is given in full in Niles' LXVIII., p. 305.

[3] The Republic of the United States * * * embracing also a review of the late war between the United States and Mexico. N. Y., 1848, p. 236.

[4] He demands the filling up of the contingents of troops "for the war which she wages against the United States." Ibid., p. 237.

[5] "The supreme government * * * has decided, with the unanimous consent of the council, upon the painful extremity of a war with the United States.,' Accordingly, it is proposed: 'Article 1.

Houston, therefore, had a formal basis of fact for his subsequent assertion in Congress, that the United States had annexed, with Texas, the war in which the latter was engaged with Mexico.[1] But it was also an undeniable fact that, as Mangum replied to Houston, the champions of annexation, in the debates over it, had most emphatically denied that this would be the result.[2] Calhoun had always declared that this fear was utterly idle, and all the proclamations and resolutions of the Mexican government had not been able to shake his belief—a belief which was by no means refuted in Houston's sense by the facts. Indeed, it was generally expected that Mexico would make great ado over annexation, but it was considered utterly improbable that her actions would follow her words, or would, in any way, correspond to them. The conclusion of the preliminary peace involving the eventual recognition of the independence of Texas, had been a confession that she was too weak to again subjugate that country. It must, therefore, have been impossible for her to believe herself sufficiently strong to tear Texas away from the United States, and so it was not to be expected that she would begin an utterly hopeless war for the sake of a mere point of honor, so long as the fact of annexation was the only question at

From the moment when the supreme government shall know that the department of Texas has annexed to the American Union, or that troops from the Union have invaded it, it shall declare the nation at war with the United States of America." Niles' LXVIII., p. 388.

[1] "The war had continued to be prosecuted against Texas, and Texas having, in the mean time, become a portion of the United States, the Government of the United States was now placed in the situation occupied heretofore by Texas in relation to Mexico. War, therefore, in his judgment, unquestionably existed between Mexico and the United States." Deb. of Congr., XV., p. 500.

[2] * * * "If there was any one thing, above all others, that was repelled and repudiated at the time of the annexation, it was that we should thereby acquire a war." Ibid., p. 501.

issue. However great Mexican pride might be, it had already bowed under the weight of facts, before Texas alone. It would have been, then, quite wonderful, if, when the weight of facts had become so very much greater, that pride should now, without further provocation, carry Mexico back to the standpoint which she had taken in the years immediately following the day of San Jacinto. The Mexican character was best understood in the Gulf States, which had, on account of climatic conditions and a strong admixture of the Latin races, a population most like her own. In those States, thoughtful people considered it ridiculous to take the Mexican rodomontades in earnest.[1] This judgment was just. The Mexican Congress adjourned, without having come to any conclusion on the proposal of the government to declare war. It authorized, of course, the suggested loan of $15,000,000, but it took no pains to make its negotiation possible. One month after another slipped by, and Mexico did nothing to carry out her threats Towards the end of the year, Polk had to bear official witness to the fact that she had made "no aggressive movement."[2] He did not assert that his measures for meeting force with force had accomplished this. But if it was not on account of fear that Mexico contented herself with pompous phrases, then his "precautionary measure" had been, in truth, a blameworthy bit of imprudence; provided he really wished, as he said he did, to maintain peace. In his opinion, he was bound to express to the commander of the troops in Texas and the squadron on the

[1] "The idea of its declaring war against the United States has been abandoned by all sensible men." The *New Orleans Picayune*, May 24, 1845. In a letter from Pensacola, Aug. 11, we read: "I have seen the commander of the brig *Mercure*, which had brought from Vera Cruz the news of the motion with regard to the declaration of war."

[2] Message of Dec. 2, 1845. Statesm.'s Man., III., p. 1558.

Mexican coast, before the whole people, his recognition of the fact that they had prevented any breach of the peace, by their discretion in the execution of his instructions. If Congress had been of the opinion, when it passed the "joint resolution," that the annexation would not result in a war, or if it could and must have been expected that Mexico would not base her conduct exclusively upon her pretended rights, but mainly upon the comparative strength of the two countries, in such a case, the discretion of the President himself appears in a very dubious light, when he gave the commanders of the army and navy instructions which needed such a discreet execution, in order not to lead to a breach of the peace. Polk had either been much too cautious (and this could scarcely be assumed of a man who had flung down the gauntlet before England in such defiant fashion), or he had gone to work with too painful a conscientiousness to fulfill his declared duty of protecting Texas, even before her formal incorporation into the Union, against every possible danger. We must seek in the instructions the answer to the question whether Polk could, in fact, boast such a sensitive conscience.

June 15, Taylor received orders to march immediately to the mouth of the Sabine, or to some other point, which, in his judgment, was best adapted for the embarkation of troops for the western boundary of Texas; the latter was to be his final aim, and there, or upon the Rio Grande del Norte, which would be the western boundary of the United States in case of annexation, he was to encamp at some fit place.[1] Is it not remarkable that the War Department considered it necessary to inform the general where the western boundary of Texas was, that is, where that of the United States was to be? If Taylor had been marching

[1] Exec. Doc. 30th, Congr., 1st Sess., No. 60, p. 81.

against Canada, he would certainly have been spared such geographical instruction. That the Government considered it necessary to give him this information, was an indirect recognition of the fact, that, upon this point, not only were different views possible, but radically different views prevailed. What his instructions clothed in the form of a statement of fact, was, in truth, only an assertion. As long as a controversy existed, which bore not only an academic character, but was an open political question, saying: "This is the boundary," meant only: "I declare this to be the boundary." Polk, indeed, had never confessed this, but had always asserted that the fact was unquestionable. Yet his own argument is a sufficient answer to this assertion. In his message of May 11, 1846, he says: "The Congress of Texas, by its act of December 19, 1836, had declared the Rio del Norte to be the boundary of that Republic.[1] This was the only basis for his assertion. He planted himself, therefore, neither upon the undeniable, actual condition of things, nor upon a once recognized title, but only upon a declaration of the Texan Congress. But that declaration was a revolutionary act, as was everything which that Congress did. It had, therefore, in itself, no legal force,[2] and could have the force of law, at most, only in so far as Texas succeeded in making the actual condition of affairs correspond to it. The next question is, therefore, how far this had happened.

Houston asserted, in the Senate, that the Mexicans had never pitched a camp this side of the Del Norte; and indeed, that the territory on the left bank of the river had never been declared to be Mexican soil, except as a part of

[1] Statesm.'s Man., III., p. 1596.

[2] "As regards right, this act of Texas is a perfect nullity." Gallatin, Address to the people of the United States on the subject of the war with Mexico. Niles' Reg., LXXIII., p. 237.

Texas.[1] The facts could not have been more boldly distorted. That territory had never belonged, under the Mexican government, to Texas, but to the State of Tamaulipas. The Nueces was the boundary between Tamaulipas and Texas.[2] In the debates over annexation in the Senate, the president of the constitutional convention of Texas was quoted as a witness to the fact, that Texas had declared the Rio del Norte to be her western boundary only to be able thereafter, in the negotiations with Mexico, to waive her claims to considerable stretches of territory, as a consideration for the recognition of her independence.[3] Moreover, years after the Republic had won her actual independence, the Texan government evidently looked upon the boundary clauses of the act of December 19, 1836, in the same way. In 1839, an attempt was made, under the leadership of General Canales, to create

[1] "However the decision might hereafter be in regard to the precise extent of our territory, the Mexicans knew full well that the river had been assumed (!) as the boundary. Up to the time of annexation it had been so considered, and, more than that, the Mexicans had never once established a military encampment on the east side of the river; it had never been held, even by themselves, to be within the limits of Mexico, otherwise than upon the ridiculous ground of claiming the whole of Texas to be theirs." Deb. of Congr., XV., p. 501.

[2] "When Texas declared itself independent, it was the insurrection of only a part of a state, for Coahuila remained united to Mexico; but the Rio Nueces was the boundary between the department of Texas and the State of Tamaulipas. The whole contested territory lies within the limits of Tamaulipas, which never was, under the Mexican government, connected in any shape with Texas." Gallatin, l. c.

[3] Senator Ashley, of Arkansas, said: "I will here add that the present boundaries of Texas, I learn from Judge Ellis, the president of the convention that formed the constitution of Texas, and also a member of the first legislature under that constitution, were fixed as they now are, solely and professedly with a view of having a large margin in the negotiation with Mexico, and not with an expectation of retaining them as they now exist on their statute book." Congr. Globe, 29th Congr., 2d Sess., App. p. 58.

an independent state under the name of the Rio Grande Republic, out of Tamaulipas, Coahuila, and Durango. Canales, who had been elected president by the revolutionists, concluded a secret treaty with the government of Texas. Its main provisions were the following: Canales bound himself to proclaim the independence of the Republic of the Rio Grande; this was to recognize the independence of Texas; Texas was to aid the new Republic in its own struggle for independence. With the aid of Texan troops, Canales occupied Laredo, a town in Tamaulipas, upon the eastern shore of the Del Norte. He was, however, compelled to flee into Texas in April, 1840, when he was attacked by Arista. With his flight the Republic of the Rio Grande ended its short life upon paper.[1] It is rescued from oblivion solely by the fact, that the Texan government, in this secret treaty, made no claim to the Rio del Norte as the boundary of Texas, and was willing to allow all Tamaulipas to form a component part of the new Republic, without considering it necessary to formally renounce any claims of its own to the territory on the east bank of the river. A formal renunciation, or a cession, would have been entirely superfluous, in so far as the act of December 19, 1836, was legally but a piece of paper, and Texas had never actually occupied the country. In this regard, the real condition of affairs remained entirely unchanged up to the time of annexation. Texas, indeed, made a few attempts to take possession of the country, but they were pitiable failures.[2]

[1] See the speech of L. Severance, of Maine, in the House of Representatives, May 28, 1846. Congr. Globe, 29th Congr., 1st Sess., App. p. 684.

[2] "An attempt was made by Texas upon Matamoras, but the expedition did not succeed, and the Texan troops were driven back. When did Texas hold any post on the Rio Grande? Never!" Severance, May 13, 1846. Congr. Globe, 20th Congr., 1st Sess., p. 814.

Polk's assertion that the annexation had made the Rio Grande the western boundary of the Union, rested, therefore, only upon the declaration contained in the law of Dec. 19, 1836. When the annexation was still an open question, even its most ardent advocates had not claimed that this law was certainly and unconditionally decisive. Ch. J. Ingersoll, who, as chairman of the House committee on foreign affairs, spoke on this matter with a certain authority, simply put aside the Rio Grande, and declared that the desert waste which lay between this river and the Nueces formed "the natural boundaries" between the two states.[1] This was, in fact, the natural boundary, if any such existed, for in a land without mountains there can be no more natural and effective boundary marks than deserts.[2]

"No Texan magistrate was ever seen, no Texan law was ever obeyed, no Texan jurisdiction was ever asserted, no Texan rule, in any form, ever existed in this extent of country. All was Mexican from the beginning, and continued so to be up to the time the American armies invaded the country, and expelled the Mexican authorities. Two military expeditions from Texas had made incursions into the country on the lower Rio Grande, but President Houston disavowed one, and both were signally defeated." Garret Davis, of Kentucky, Dec. 22, 1846, in the House of Representatives. Congr. Globe, 29th Congr., 2d Sess., App. p. 106.

Even Kaufman, of Texas, who, with regard to all rights claimed by Texas, was wont to take a higher, bolder tone than Houston himself, was forced to admit in the House of Representatives, July 28, 1848: "It is true, Texas has never had possession of any part of the valley of the Rio Grande in New Mexico, or of New Mexico." Congr. Globe, 30th Congr., 1st Sess. App., p. 972.

[1] "While peace is cherished, that boundary will be sacred. Not till the spirit of conquest rages, will the people on either side molest or mix with each other." Congr. Globe, 29th Congr., 2d Sess., App. p. 58.

[2] "The whole country between the settlement of San Patricio and Corpus Christi, till within a few miles of the Del Norte, is a perfect desert, one hundred and sixty miles wide by the route pursued by General Taylor, as stated by himself, and near one hundred and twenty

Polk asserted, indeed, in his message of May 11, 1846, that Texas had actually exercised jurisdiction beyond the Nueces; and this was true. But if the President had wished to represent correctly the actual condition of affairs, he would have been forced to add that this "beyond" was limited to the river. Corpus Christi, at the mouth of the Nueces, and the little town of San Patricio,[1] higher up, and peopled by about twenty families, were the only points beyond the Nueces held by Texas. In like manner it was only a half-truth, and it presented the actual condition of affairs in a false light, when the President asserted, further, that Congress, by the law of December 31, 1845, had "recognized the country beyond the Nueces as a part of our territory by including it within our revenue system."[2] This law[3] said nothing about the boundaries of Texas, but simply made Corpus Christi, with several other Texan towns, a port of delivery, requiring a collector of customs. By another law, however, and at a time when the United States was not the judge of its own cause, Congress had shown in the most certain way that it, at least, did not look upon the whole line of the Rio Grande as either the actual or the rightful boundary of Texas. A law of March 3, 1845, contained provisions for

miles in a straight line. The only settled part of it is along the left bank of the Del Norte, and but a few miles in breadth." Gallatin, l. c. In the chart published by the general land office the region is marked as "unproductive prairie, interspersed with chaparral, deep sand, no water."

[1] Gallatin, l. c. My maps place San Patricio on the left bank of the river. I am unable to say whether my maps, or Gallatin's accounts, are incorrect, or whether the place as it grew extended to the east bank. Texas, at any rate, had made San Patricio a county, and declared that the county extended as far as the Rio Grande. This again was but a "declaration."

[2] Statesman's Man., III., p. 1596.

[3] Stat. at L., IX., p. 2

the paying back of duties in "Chihuahua and Santa Fé, in New Mexico."[1] Texas had made no objection to this law, and would have simply made herself ridiculous if she had tried to object; for New Mexico was in the unquestioned possession of Mexico, and showed no inclination whatever to be incorporated with Texas.[2] And not only at Santa Fé, but at Brazos, a town at the mouth of the Rio Grande, American merchants paid the duties imposed by the Mexican tariff at the Mexican custom houses, both before and after the annexation, without complaint.[3]

Polk, of course, knew these facts, and there is no reason for impugning his intellect by supposing that he could not measure their scope. That his silence about them was deliberately designed is made clearer than day by the false coloring by means of which he manages, without exciting distrust by bold misrepresentations, to give to things which supported his assertion a weight which they did not remotely deserve. He knew enough of international law, and of practical politics to know, that the boundary-question could not be determined exclusively and unquestionably by the act of the Texan Congress, of December 19, 1836. If he had really been under this naive delusion, he would not have hunted up every possible fact which appar-

[1] "An act allowing drawback upon merchandise exported in the original packages to Chihuahua and Santa Fé, in Mexico." Stat. at L., V., p. 750.

[2] Kaufman himself had to avow: "It is true that Santa Fé was the capital of the ancient Province of New Mexico, and that the people of New Mexico never consented to its transfer to Texas." June 10, 1850. Congr. Globe, 31st Congr., 1st Sess. App., p. 939.

[3] New Mexico was represented in the Mexican Congress. According to the St. Louis *Republican*, merchandise valued at $342,530 was imported into Santa Fé in 1845. The duties upon it yielded $105,757 to the Mexican authorities. McIlvaine, March 26, 1846; Congr. Globe, 29th Cong., 1st Sess., p. 580. Compare, also, the American Review, Jan. 1847.

ently supported his theory. He was thoroughly acquainted with the weight of facts, and he certainly knew that the facts were now just as they had been when Ingersoll proclaimed that the desert was the natural and actual boundary. The persons to whom he intrusted the execution of his policy informed him of this, unanimously and in the clearest possible words. Donelson, in a letter to Taylor, which the latter forwarded to Washington, emphasized the fact that it was an open question to whom the land between the Nueces and the Rio Grande belonged, and mentioned Corpus Christi as the westernmost settlement of the Texans.[1] Taylor, himself, announced to the Adjutant-General his plan of advancing towards Corpus Christi, with the remark, that the line of the Nueces enclosed all the Texan towns. He actually spoke of San Antonio as situated on the western boundary.[2] And the Texan Secretary of War, Wm. G. Cook, besought Taylor to protect Austin, on the Colorado, "because it is on the boundary."[3] The American officers, who confined themselves simply to the facts, without regard to how the President might turn the legal question to suit himself, knew, that, in the valley of the Rio Grande, they were standing upon Mexican soil.[4] All the "declar-

[1] June 28, 1845. "Corpus Christi * * * is the most western point now occupied by Texas. * * * The occupation of the country between the Nueces and Rio Grande, you are aware, is a disputed question. Texas holds Corpus Christi; Mexico, Santiago, [Brazos,] near the mouth of the Rio Grande." Exec. Doc., 30th Congr., 1st. Sess., No. 60, p. 805.

[2] July 8, 1845. "It will be seen * * * that the United States chargé also recommends the immediate occupation of the western frontier of Texas, from the coast to San Antonio. * * * I shall confine myself, in the first instance, to the line of the Nueces, which covers all the settlements." Ibid., p. 802.

[3] Ibid., p. 804.

[4] An officer writes to the *Philadelphia Spirit of the Times:* "Camp opposite Matamoras, April 19, 1846. Our situation here is an extraordinary one. Right in the enemy's country, actually occupying their

ations" of the Texan Congress had not changed the fact that this strip of land was inhabited exclusively by Mexicans,[1] who felt themselves to be Mexicans, and wished to remain Mexicans.[2] Yes, Marcy, as well as Bancroft, had to recognize the grievous fact that Mexico had, upon the left bank of the Rio Grande, military posts, which had not been first erected in view of threatened entanglements with the United States, when Polk, "in anticipation" of the annexation, had ordered Taylor to march to the "western frontier of Texas."[3] Moreover, what Marcy[4] and Polk[5]

corn and cotton fields, the people of the soil leaving their homes, and we, with a small handful of men, marching with colors flying and drums beating, right under the guns of one of their principal cities, displaying the star-spangled banner, as if in defiance, under their very nose, and they with an army twice our size, at least, sit quietly down, and make not the least resistance, not the first effort to drive the invaders (!) off. There is no parallel to it." Congr. Globe, 29th Congr., 1st Sess., App. p. 686.

[1] This belt was settled, inhabited and occupied exclusively by Mexicans. Gallatin, l. c.

[2] In a letter from an officer, published in the *Albany Argus*, it is said: "West of the Nueces the people are all Spaniards. The country is uninhabitable excepting the valley of the Rio Grande, and that contains a pretty dense population, and in no part of the country are the people more loyal to the Mexican Government."

[3] "This department is informed that Mexico has some military establishments on the east side of the Rio Grande, which are, and for some time have been, in the actual occupancy of her troops. In carrying out the instructions heretofore received, you will be careful to avoid any acts of aggression, unless an actual state of war exist. The Mexican forces at the posts in their possession, and which have been so, will not be disturbed as long as the relations of peace between the United States and Mexico continue." Marcy to Taylor, July 8, 1845. Exec. Doc., 30th Congr., 1st Sess., No. 60, p. 82. "You will, therefore, not employ force to dislodge Mexican troops from any post east of the Del Norte which was in the actual possession of the Mexicans at the time of annexation." Bancroft to Commodore D. Connor, Ibid., p. 232.

[4] "In case you conquer Santa Fé." Marcy to General Kearney, June 3, 1846. Ibid., p. 153.

[5] "Texas had asserted a right to that part of New Mexico east of

had plainly said of New Mexico was true of the southern part of the valley of the Rio Grande:—it must first be *conquered*, for it was as completely as the former in the possession of Mexico. If the possessory title to the territory between the Nueces and the Rio Grande had really been *res adjudicata*, the President could not have suffered Mexican troops to remain a single instant upon the soil of the Union. The order to leave these troops entirely unmolested was a formal recognition of the fact, that it was an open question whether they had a right to be where they were, and that the final decision of this question did not belong to the President.

But if the declarations of the Texan act, of December 19, 1836, were recognized as, in great part, fictions, without any actual basis of fact, it was simply ludicrous and absurd to ignore so completely Mexico's whole chain of reasoning, as if a controversy were impossible because Mexico had not been able to subjugate "Texas," and Texas herself had declared of what "Texas" consisted. Polk's cause must, indeed, have been a poor one, if he was forced to clothe his sophisms in the garb of such an amazing bit of naiveté. Mexico and Texas confronted each other only upon the ground of the actual condition of affairs, for the questions between them had not come to any legal issue.

the Rio Grande which is believed, under the acts of Congress for the annexation and admission of Texas into the Union as a state, and under the constitution and law of Texas, to be well founded; but this right had never been reduced to her actual possession and occupancy. The general government, possessing exclusively the war-making power, had the right to take military possession of this disputed territory, and until the title to it was perfected by a treaty of peace, it was their duty to hold it, and to establish a temporary military government over it, for the preservation of the conquest itself, the safety of our army, and the security of the conquered inhabitants." Message of July 24, 1848. Statesm.'s Man. III., p. 1720.

This position on the part of Texas was transferred, with annexation, to the United States. The latter accepted it as far as corresponded with their interests. They rightly declared that they could pay no sort of attention to the fact, that Mexico, despite the nine-year old actual independence of Texas, still pretended to look upon the latter as her province. When, however, this position did not suit the interests of the United States, Polk thought himself justified in rejecting it, although here the actual condition of affairs was much more unconditionally and exclusively the measure of national rights. Texas had once been a province of Mexico in law and in fact; Texas had never occupied New Mexico and the valley of the Rio Grande, and the title of Mexico to this territory, unquestioned up to the time of the secession of Texas, was opposed only by the revolutionary claim, put forth by Texas, which the latter had never been able to make good. Moreover, the Texan government had just formally recognized, that the law of December 19, 1836, was of no final binding force, because it had announced at the time of the preliminary peace its willingness to settle the boundary question by arbitration, when peace was finally concluded. Texas, therefore, had certainly no ground of complaint, if the United States chose to adopt the standpoint of her own government. Donelson advised the adoption of this standpoint, adding that the least which Mexico could expect from the United States, would be that the latter should not go beyond it.[1]

[1] He writes to Buchanan, July 2, 1845: "My position is, that we can hold Corpus Christi and all other points up the Nueces. If attacked, the right of defense will authorize us to expel the Mexicans to the Rio Grande.

"It is better for us to await the attack, than incur the risk of embarrassing the question of annexation with the consequences of imme-

Unquestionably, this was the only right policy, if the President really wished to avoid war. It could not result in evils, which would justly expose him to the reproach of having neglected his official duties. If he did not consider the deserts as a sufficient barrier, he might have gone further than was necessary for the protection of the Texans living on this side of the Nueces, and sent Taylor forward as far as that river. But there were no Texans west of Corpus Christi, and—however far the Texan territory might stretch—it was, therefore, unnecessary, in order to protect the Texans, to send troops among the Mexican population inhabiting the "exposed frontier" of the Rio Grande.[1] Polk acted as though he wished to follow Donelson's counsel. July 30, orders were sent to Taylor to occupy, protect, and defend the territory of Texas, so far as it had been occupied by the Texans. He was, however, to avoid in his occupation of the country, those posts and settlements which were held by Mexican troops, or which had not been, at the time of annexation, in the possession of Texas. Yet he was also commanded to approach the Rio Grande, as nearly as might seem prudent, and to extend his protection as far as that river.[2] These two

diate possession of the territory of the Rio Grande." Exec. Doc., 29th Congr., 1st Sess., Vol. I., No. II., p. 78.

Thus he, too, does not wish the claim of the Rio Grande as boundary to be given up, but is only opposed to plunging into a war on account of it, and immediately enforcing the right of the stronger. On the 11th of July he writes to Buchanan: "I at once decided that we (that is the army) could take no such position [on the Rio Grande], but should regard as only within the limits of our protection that portion of territory actually possessed by Texas, and which she did not consider a subject of negotiation. * * * What the Executive of Texas had determined not to fight for, but to settle by negotiation, to say the least of it, could as well be left to the United States upon the same condition." Congr. Globe, 29th Congr., 2d Sess., App. p. 107.

[1] "This river * * * is an exposed frontier." Message of May 11th, 1846. Statesm.'s Man., III., p. 1596.

[2] * * * "You are expected to occupy, protect, and defend, the

instructions could be reconciled, only if there were Texan settlements between Corpus Christi and the Rio Grande. But Polk and Marcy knew well enough that this was not the case, and they must, therefore, have been also fully aware that the orders of July 30th to Taylor said yes and no at the same time. What was the aim of this? The answer must be sought in the subsequent instructions to Taylor.

The general had, meanwhile, marched towards the west, and was seeking a suitable place for encampment. At the beginning of August, he decided upon Corpus Christi. His announcement that he had reached there in safety with a part of his troops, was crossed by a dispatch from the adjutant-general, dated August 6, which informed him that a regiment of infantry and a detachment of dragoons had received orders to reinforce him, and that he was authorized, in case of necessity, to muster Texan volunteers into the service of the United States. The reason assigned for these steps was that, even in case Mexico did not begin war and did not attempt an invasion, he might be placed in a position to meet any possible emergency. As early as August 23, before Taylor's report, already mentioned, of August 15, had reached Washington, another dispatch was sent him by the Secretary of War, which informed him

territory of Texas, to the extent that it has been occupied by the people of Texas. The Rio Grande is claimed to be the boundary between the two countries, and up to this boundary you are to extend your protection, only excepting any posts on the eastern side thereof, which are in the actual occupancy of Mexican settlements over which the Republic of Texas did not exercise jurisdiction at the period of annexation, or shortly before that event. It is expected that, in selecting the establishment for your troops, you will approach as near the boundary line, the Rio Grande, as prudence will dictate. With this view, the President desires that your position, for a part of your forces, at least, should be west of the river Nueces." Exec. Doc., 30th Congr., 1st Sess., No. 60, pp. 82, 83.

that the fleet in the Gulf of Mexico had received orders to coöperate with him, and authorized him to muster into the service also volunteers from Louisiana, Alabama, Mississippi, Tennessee and Kentucky.[1] This haste to enable Taylor to bring together in Texas, in a short time, and without further instructions, a considerable army, was the more remarkable, inasmuch as Marcy's letters of August 25 and 28, to the Governors of the States named, in regard to the powers conferred upon Taylor, pointed out the fact that Congress had not foreseen the necessity for such a course, and had, therefore, made no appropriation for the payment of the militia.[2] But since it was not pretended that there was any immediate necessity for raising volunteers, this lack of foresight could still be readily repaired. Why did not the President immediately call a special session of Congress? The affair was surely important enough to justify such a course. A necessity for calling militia into the service of the Union could arise, only if the probability of war bordered upon certainty, and the right of declaring war belonged to Congress alone. It would, therefore, have been only loyal if the President had sought to offer Congress an opportunity to express its wish and will before it found itself confronted by already accomplished facts. But however obvious and well-founded such reasoning might be, the President could not think of summoning Congress to Washington before the regular time, and this, simply because nothing whatever had happened, apart from the things done and left undone by the President

[1] Exec. Doc., 30th Congr., 1st Sess., No. 60, p. 85.

[2] "It is proper to observe that the emergency rendering such assistance from the militia of your State necessary, does not appear to have been foreseen by Congress, and consequently no appropriation was made for paying them; but it is not to be doubted that such a provision will be promptly made when Congress shall again assemble." Ibid., p. 86.

himself, which Congress had not foreseen before its last adjournment. There were all sorts of reports, indeed, of great Mexican armies upon the border, but, if the Government could, in good faith, think that these reports were not made out of whole cloth, it nevertheless considered them greatly exaggerated.[1] It never spoke of the possibility that bankrupt Mexico could secretly put a force of troops in the field sufficient seriously to threaten Texas alone, apart from the rest of the Union. However audacious Polk and his Cabinet might be in their assertions, they never ventured to assign the *periculum in mora* as a ground of justification. There must have been, therefore, another reason for their haste.

We have already heard how Donelson, who was far-sighted and prudent in the boundary question, expressed his opinion that, in case of an attack on the line of the Nueces, the right of self-defense would justify driving the Mexicans back over the Rio Grande. But if the Government shared the wish of its agent for an attack, was it not, then, a surer plan to go somewhat further to meet the Mexicans? In any event, Polk wished Taylor to go towards them as far as possible, that is, up to the line of the Rio Grande. We have seen how this wish, in dispatch after dispatch, was more clearly expressed and more strongly emphasized, yet without any direct command to fulfill it. Even the instruction of August 23 does not do this, but it goes a long step beyond the earlier orders in regard to his conduct. If, it says, Mexico collects a con-

[1] Adjutant-General R. Jones, in a dispatch of August 26, acquainted Taylor with these rumors, and gave him to understand that dissatisfaction was felt with him because he so seldom let the Goverment hear from him. "But, however exaggerated these reports may be, we cannot, for want of official tidings, undertake to correct what we have good reason to believe not to be true." Exec. Doc., 30th Congr., 1st Sess., No. 60, p. 87.

siderable body of troops upon the Rio Grande, and they cross the river, the President will consider this as an invasion of the United States, and the commencement of hostilities. Instructions dated August 30 repeated this declaration, but emphasized it by saying, that even an attempt to cross the river with a considerable force would be regarded in the same light.[1] What is a "considerable force"? Was it not a serious matter to leave the decision of this question, which involved peace and war, to the discretion of the general? And how could Mexico's right to send troops to the left bank of the river, depend upon the number of troops sent? But if she could send over none at all, she was then completely cut off from her military posts there, her right to maintain which had been formerly indirectly recognized by Polk, by his repeated commands to Taylor not to molest them in any way. If the President had a perfectly free choice of means for solving the problem in the interest of the United States, that is, if he could have based his policy exclusively upon considerations of expediency, then these objections might be irrelevant, although they would necessarily, under all circumstances, awaken grave doubts in the mind of an impartial critic, as to whether the President was really so anxious to maintain peace, as he asserted that he was. But the policy of the President had to be confined within the constitutional limits of his power. Before the question of expediency was taken into consideration, it was, therefore, to be decided whether Polk had any sort of right to declare that the crossing of the Rio

[1] "You have been advised that the assembling a large Mexican army on the borders of Texas, and crossing the Rio Grande with a considerable force, will be regarded by the Executive here as an invasion of the United States, and the commencement of hostilities. An attempt to cross that river with such a force will also be regarded in the same light." Ibid., p. 88.

Grande by Mexican troops, or an attempt at a crossing, was an invasion of the United States, and the commencement of hostilities.

A law of February 28, 1795, authorized the President to call out the militia of the states, in case of an actual or threatened invasion of the United States.[1] The Supreme Court had declared that the law was constitutional, and that the authority to decide when the exigency had arisen belonged exclusively to the President.[2] From this it has been argued, that, whatever complaints may be justly made against Polk's policy, he can not possibly be accused of having acted unconstitutionally. Yet, however unquestionable this may seem at first glance, it is, nevertheless, erroneous. Evidently, the false statement of the question has led to the error. It is true that it belongs to the President alone to decide what is an invasion, and when an invasion is threatened, but never and nowhere has the right been given him to decide alone what is the United States. This was the first thing at issue. This was the question precedent, which must be properly decided before the other question could even be raised, for the law of February 28, 1795, and the judicial decisions upon it,

[1] * * * "Whenever the United States shall be invaded, or be in imminent danger of invasion from any foreign nation or Indian tribe, it shall be lawful for the President of the United States to call forth such number of the militia of the state or states most convenient to the place of danger, or scene of action, as he may judge necessary to repel the invasion." Stat. at L., I., p. 424.

[2] * * * "We are all of opinion that the authority to decide whether the exigency has arisen belongs exclusively to the President, and that his decision is conclusive upon all other persons." Martin v. Mott, Wheaton's Rep., XII., p. 30; Curtis, VII., p. 12. See, also, Luther v. Borden, Howard's Rep., VII., p. 1, Seqq.; Curtis, XVII., p. 1, Seqq. Of course the President, as commander-in-chief, may employ the regular Federal troops when he is authorized to call out the militia.

spoke only of the "United States," and not of territories which would probably, sooner or later, belong to the United States. Up to this time, Texas did not altogether belong to the Union, for the annexation had not yet been perfected. It is not to be denied that it was sufficiently perfected, in substance and form, to give the Texans a claim to the protection of the Union. But Texas had no right to demand more, and the President had no right to do more. Texas could be regarded as part of the Union only upon the ground of the joint resolution of Congress. This had been unconditionally accepted by Texas, and was an absolutely binding instruction to the President. If its conditions did not please him, he was left free to attempt annexation by a treaty, which gave him the widest possible room for action. He had decided upon the former method, and had thereby waived his own right to take the initiative. But Congress had, in the annexation resolutions, consented expressly only to the incorporation into the Union of the territory rightfully belonging to the Republic of Texas, and, in order to avoid all misconstructions, it had further expressly reserved to the Federal government the right of adjusting all possible questions of boundary with other governments.[1] Texas had, therefore, by her adoption of the annexation resolutions, abandoned any claim that her "declarations" in regard to the boundaries of the Republic, had any binding force whatever upon the Union. The question had been left open, and Congress had shown a disposition to attempt an

[1] "*Resolved*, * * * That Congress does consent that the territory properly included within, and rightfully belonging to the Republic of Texas, may be erected into a new state," etc.

"Said state to be formed, subject to the adjustment by this government of all questions of boundary that may arise with other governments." Stat. at L., V., p. 797.

"adjustment" of it with Mexico. The final decision upon it was not, according to the constitution, entrusted to the President, but was reserved to the "government." And this is all in full accord with repeated official expressions of former, as well as of the present executive power. We have already heard that Calhoun informed the Mexican government, through Green, that nothing was said in the treaty of annexation on the boundary question, because Tyler wished to settle all controversies between the two countries in the "most just and liberal" way.[1] March 31, 1845, Shannon had repeated his statement, in Polk's name, almost word for word.[2] Now, did these assurances mean anything at all, and was the boundary question really left open, if Mexico's attempt to send her forces across the most distant line which could be claimed by the United States was to be an invasion and the commencement of hostilities, while the Union forces were to approach that line as soon as prudence permitted, and were to extend their protection as far as that line? If the before mentioned restrictions contained in the annexation resolutions were honorably meant, they could mean only one thing—that, in case of their adoption, only the territory actually occupied by Texans should be considered as definitely annexed, and the possessory title to the remainder would be settled by negotiation. The accomplishment of Taylor's instruction, however, brought about a new condition of affairs in regard to the possession of the land, such as had

[1] Calhoun's Works, V., p. 349.

[2] "And here he [Shannon] will improve this opportunity to repeat that which he had before communicated to the government of Mexico, to-wit: that the United States has not adopted the measure of annexation in any spirit of hostility towards Mexico, and that the United States are anxious to settle all questions which may grow out of this measure, including that of boundaries, on term the most just and liberal." Niles' Reg., LXVIII., p. 134.

never existed during the independence of Texas. The President shifted the boundaries into a territory, with regard to which the only competent authority had purposely postponed the decision, whether it belonged to the Union or not. From this bit of usurpation he then deduced the right to exercise over the disputed territory an authority given him only within the limits of the United States. But the almost unavoidable result of this was necessarily a collision with Mexican troops, and such a collision the President now declared would be "war." And in this way the United States could be suddenly confronted with a war with Mexico as an already existing fact, without Congress having had a word to say in the whole affair—Congress, which alone has the right of declaring war.

One might think—Polk himself might have believed—that he had done enough to satisfy his sensitive feeling of duty when, despite his earnest wish to maintain peace, he had deduced all these results from the Texan law of December 19, 1836. But the instructions of August 30 went still a step further. Not only if war were declared, but also in case Mexico should have brought on an actual state of war by the hostile acts indicated, Taylor was not to confine himself exclusively to protecting Texas. If he had sufficient force, he was to cross the Rio Grande and seize upon Matamoras and other places.[1] These direc-

[1] "In case of war, either declared or made manifest by hostile acts, your main object will be the protection of Texas; but the pursuit of this object will not necessarily confine your action within the territory of Texas. Mexico having thus commenced hostilities, you may, in your discretion, should you have sufficient force, and be in a condition to do so, cross the Rio Grande, disperse or capture the forces assembling to invade Texas, defeat the junction of troops uniting for that purpose, drive them from their positions on either side of that river, and, if deemed practicable and expedient, take and hold posses-

tions explain why it had been thought necessary to put Taylor in such comparatively excellent fighting trim, although a handful of Texans had won Texan independence at San Jacinto. If the first gun shot was to be the signal for a war of conquest, more troops were certainly needed.

The instructions of August 30 were crossed by a dispatch from Taylor, dated September 6, which announced that, according to trustworthy reports, Mexico was making no military preparations on the Rio Grande, and a declaration of war was not likely, and that, while he would continue to prepare for war, he wished no volunteers sent him without a requisition, for he probably would not need them.[1] A former American consul at Matamoras soon gave Taylor the same information. General Arista had given this gentleman his solemn assurance that only small parties of Mexican troops should be sent across the Rio Grande, and that they would be sent only to hold the Indians and the smugglers in check.[2]

sion of Matamoras, and other places in the country. I scarcely need to say that enterprises of this kind are only to be ventured on under circumstances presenting a fair prospect of success." Exec. Doc., 30th Congr., 1st Sess., No. 60, pp. 88, 89.

[1] "I have the honor to report that a confidential agent, despatched some days since to Matamoras, has returned, and reports that no extraordinary preparations are going forward there; that the garrison does not seem to have been increased, and that our consul is of opinion there will be no declaration of war. * * * A body of 3,000 men was reported in march to Matamoras, but the information is too vague to merit much confidence. The agent, who is intelligent, and upon whose statement a good deal of reliance may, I think, be safely placed, says that the mass of the people with whom he mingled is opposed to a war with us. * * * I shall not relax my exertions to prepare for active operations and a state of war with Mexico. I must express the hope that no militia force will be ordered to join me without my requisition for it. I am entirely confident none will be required." Ibid., pp. 105, 106.

[2] J. D. Marks to Taylor, Sept. 23, China, Mexico: "I * * * am

In Washington there was no doubt of the trustworthiness of these tidings. Quite apart from them, the President and his cabinet had, by this time, come to the conclusion that at least for the present, neither declaration of war nor invasion was to be expected. Marcy's despatch of October 16, to Taylor, expressed this frankly, but yet repeated his orders to approach the Rio Grande as nearly as might be.[1] The "threatened invasion" now shrivels into "any attempted incursions," which were to be prevented. Between the lines there seems to glimmer a wish that the General should consider any transfer of troops to the left bank of the Rio Grande as an "incursion."[2] At least, the despatch says not a word about the protection to which the Texans were entitled but emphasizes, as of prime importance, the fact that the "government of the United States"—since when had the President become the government of the United States?—was determined to maintain its claim to the boundary of the Rio Grande. How far this directed him to go, or made it his duty to go, Taylor was left to decide for himself. The Secretary of War wished exhaustive information as to his plans and views,

pleased to state to you, that from the opinions and views he (Arista) made known to me, the Cabinet of Mexico is disposed to enter into an amicable arrangement with the United States in relation to the boundary, and all other momentous questions. * * * General Arista pledged his honor to me that no large body of Mexican troops should cross the left bank of the Rio Grande; that only small parties, not to exceed two hundred men, should be permitted to go as far as the Arrayo Colorado (twenty leagues from the Rio Grande), and that they would be strictly ordered only to prevent Indian depredations and illicit trade." Congr. Globe, 29th Congr., 2d Sess., App. pp. 155, 156.

[1] Exec. Doc., 30th Congr., 1st Sess., No. 60, pp. 89, 90.

[2] *The Union*, the organ of the administration, writes, Sept. 11: "If Arista dares to carry out his braggart threats, if he ventures to cross the Rio Grande with reinforcements to any little armed posts, which the Mexicans may occupy on the east side of the river, General Taylor will attempt to prevent him—blood must flow—war will ensue."

recommended him to be fully prepared for any emergency, and instructed him not to wait for orders from Washington.[1]

There was no need of this last hint, to acquaint Taylor with what was wished of him, but he was not ready to gratify the administration by pulling hot chesnuts out of the coals. He had already, on October 4, sent a despatch to the Adjutant-General, in which he advised an immediate advance to the Rio Grande, provided this boundary-line was to be the "ultimatum;" but if this plan were adopted, the war department would have to order the advance, for he did not feel authorized by his earlier instructions to take such a step.[2] This position was entirely correct. Taylor, in his official capacity, had nothing to do with the political and legal phases of the question; it concerned him only from the military standpoint, and from that his advice was un-

[1] "You need not, therefore, wait for directions from Washington, to carry out what you may deem proper to be done." The following passage, too, perhaps deserves to be quoted: "It is extremely desirable that the sea coast, or at least that part of it which will be likely to be visited by our vessels in aid of any contemplated (!) military operations, should be better known here than it now is."

[2] "It is with great deference that I make any suggestions on topics which may become matter of delicate negotiation; but if our government, in settling the question of boundary, makes the line of the Rio Grande an ultimatum I cannot doubt that the settlement will be greatly facilitated and hastened by our taking possession at once of one or two suitable points on or quite near that river. Our strength and state of preparation should be displayed in a manner not to be mistaken. However salutary may be the effect produced upon the border people by our presence here, we are too far from the frontier to impress the government of Mexico with our readiness to vindicate, by force of arms, if necessary, our title to the country as far as the Rio Grande. * * * Mexico having made as yet no positive declaration of war, or committed any overt act of hostilities, I do not feel at liberty, under my instructions, particularly those of July 8, to make a forward movement to the Rio Grande without authority from the War Department." Exec. Doc., 30th Congr., 1st Sess., No. 60, pp. 108, 109.

questionably sound. But he could not allow, and ought not to have allowed, the political responsibility for a step which made war practically certain to be shoved upon him, by his taking that step under vague and general instructions. If the President wished the step to be taken, he would have to assume the whole responsibility for it by an express and entirely unambiguous command.

The War Department, as far as can be gathered from the published records, answered this despatch by profound and protracted silence. It was evidently useless to write further variations on the theme which had now been handled for seven months in the instructions to Taylor. The energetic pursuit of the wished-for end was not checked for an instant on this account, but before the administration decided to send Taylor the order he required—the last resource, to which resort could be had at any moment—it wished to see whether the game would not yet lend itself to the original scheme, although Taylor declined to play the trump-card thrust upon him. Buchanan had already, on the 17th of September, commissioned one Black, a consul in Mexico, to enquire of the Mexican government whether it would receive an "envoy," in order to consider and to try to adjust, in a peaceful way, "all" the questions at issue. The reason of this suggestion was, according to Buchanan, that Mexico seemed inclined to resume diplomatic intercourse, and the President now, as before, wished to see the most heart-felt and friendly relations prevail between the two sister republics; he had taken measures, as in duty bound, to cope successfully with the threatened invasion, but he wished to maintain peace, although he was prepared for war.[1] It is clear from the latter phrases that the introduction of diplomacy did not

[1] Ibid., p. 12.

mean a change of front, but had been part of the plan of operations from the beginning. Before the right hand of the negotiator offered a treaty, his left was to be able to point to an army, ready for battle, encamped upon the frontier.

Peña y Peña, Minister of Foreign Affairs, answered this suggestion, October 15, saying that Mexico, although seriously wronged by the advance of the United States forces into Texas, was ready to receive a "commissioner" in order "to settle the present dispute in a peaceable, reasonable, and honorable manner;" but as Mexico did not wish to appear to be acting under duress, the United States squadron then lying off Vera Cruz would have first to be removed.[1] This answer reached Washington November 9, and Polk considered it an acceptance of his propositions. On the following day, he named John Slidell, of Louisiana, as envoy extraordinary, and gave him full power to make a final settlement of all contested questions between the two powers, including those in relation to boundaries.[2]

Had Polk by this time come to know that the annexation resolutions did not decisively and irrevocably make the Rio Grande the boundary of the United States, in the event of the incorporation of Texas? By no means. His position was precisely the same as before. He had always wished to "negotiate" the boundary question with Mexico, but his "ultimatum" was now, and had always been intended to be, that Mexico must yield to the United States every foot of land which the United States claimed. If she would not agree to this, then she must herself, in Polk's opinion, be responsible for the consequences; and the latter would not be light. It would not be his fault,

[1] Exec. Doc., 30th Congr., 1st Sess., No. 60, pp. 16, 17.
[2] Statesm.'s Man., III., p. 1560.

at any rate, if she did not have to pay a heavy price for having learned so ill the lesson that might makes right. From the beginning, he had had this possibility in view, had considered it the most probable event, and had prepared everything to make the best use of it.

Nevertheless, the orders to Taylor to reduce "Matamoras and other places," under certain circumstances, are no convincing proof that the President was planning conquests; taking the offensive might be considered the best plan of defense. As early as the 11th of July, Commodore Connor, the commander of the Gulf squadron, had been informed by Bancroft that the President was determined to force Mexico to conclude peace, if she declared war, by the most energetic measures.[1] Did this mean that she was to be forced to conclude peace upon the basis of the Rio Grande boundary? Bancroft's instructions of June 24 to Commodore Sloat, who commanded the fleet on the Pacific, declared still more emphatically that the President wished most earnestly to maintain peace, and warned the commodore to avoid everything which might endanger the fulfillment of this wish. If, however, Sloat received certain intelligence of a declaration of war by Mexico, he was to possess himself at once of San Francisco and other ports.[2] If the only thing desired was to conquer peace, it is cer-

[1] "Should Mexico declare war, you will at once dislodge her troops from any post she may have east of the mouth of the Del Norte; take possession of Tampico; and, if your force is sufficient, will take the castle of San Juan d'Ulloa, it being the determination of the President to preserve peace, if possible; and, if war comes, to recover peace by adopting the most prompt and energetic measures." Exec. Doc., 30th Congr., 1st Sess., No. 60, p. 233.

[2] "The Mexican ports on the Pacific are said to be open and defenseless. If you ascertain with certainty that Mexico has declared war against the United States, you will at once possess yourself of the port of San Francisco, and blockade or occupy such other ports as your force may permit." Ibid., p. 231.

tainly surprising that San Francisco was put so prominently in the foreground, since, according to Bancroft's own testimony, there was, practically, no connection between California and Mexico.[1] Mexico's power of armed resistance, would, therefore, be least impaired by a blow in just this spot. But if the immediate injury to Mexico from such a seizure would be slight, the seizure might be of incalculable value to the United States, in case the war was intended to do something more than merely to force Mexico to recognize the Rio Grande as the boundary. If this was the ruling idea of the policy pursued at Washington, the instruction to Sloat is intelligible enough. And in the light of this consideration, one may easily see, too, why Sloat was so strictly commanded, in case of a seizure, to "preserve, if possible, the most friendly relations with the inhabitants," and, where he could do so, "to encourage them to adopt a course of neutrality."

The instructions must be read in the light of preceding and subsequent events. If this is done, no impartial critic can object that this interpretation introduces anything into them which they do not contain. We remember how Wise, of Virginia, declared, in the House of Representatives, in April, 1842, that he would allot California a place where all the power of England could not reach her, and how Commodore Jones in October of the same year raised the stars and stripes at Monterey. Mexico, which had had her wits sharpened by her experience with Texas, knew what this sign of the times meant. All citizens of the United States in California and the neighboring departments were ordered to leave the country. When Waddy Thompson, the American ambassador, was informed of this order in De-

[1] "A connection between California, and even Sonora, and the present government of Mexico, is supposed scarcely to exist." Bancroft to Sloat, May 15, 1846. Ibid., p. 236.

cember, 1843, he naturally complained of it, but effected nothing by his representations until, without being authorized to do so by his Government, he demanded his passports. He afterwards confessed that this rough demeanor had cost him some pangs of conscience, for he knew that his protegés had prepared to repeat the drama of Texas.[1] The project was not carried out at the time, but it was not given up. It was merely postponed to a more favorable opportunity. In the United States itself, longing eyes were kept fastened upon the beautiful land. From the spring of 1845, the newspapers, favorable to annexation, openly spoke of the acquisition of California,[2] and on the

[1] Recollections of Mexico, pp. 227–232. "I confess that in taking the high ground I did, upon the order expelling our people from California, I felt some compunctious visitings; for I had been informed that a plot had been arranged, and was about being developed by the Americans and other foreigners in that department, to reënact the scenes of Texas."

[2] The *New Orleans Courier* writes in May: "Information in regard to this favored portion of the globe is eagerly sought after by our citizens, as it is destined ere long to be annexed to the United States." Niles, LXVIII., p. 162. Livermore, The War with Mexico Reviewed, pp. 42–50, prints several copies of such articles. Webster writes, March 11, 1845, to his son, Fletcher: "But she [England] will, doubtless, now, take care that Mexico shall not cede California, nor any part thereof, to us. You know my opinion to have been, and it now is, that the port of San Francisco would be twenty times as valuable to us as all Texas." Webst.'s Priv. Corresp., II., p. 204. I find in Niles' Reg., LXX., p. 267 (June 27, 1846), taken from the *National Intelligencer*, the following noteworthy statements, with regard to which, unfortunately, my other authorities leave me wholly in the lurch. "We find the subjoined interesting statement in the Washington correspondence of the *North American*. How far the particulars of the statement may be accurate, we cannot say; but that it was Mr. Webster's purpose, in 1842, under the sanction of the then President, to obtain by peaceable cession from Mexico, the port of San Francisco, and that this purpose was made known to Lord Ashburton and Lord Aberdeen, and met no opposition in those quarters, we believe to be entirely true. We doubt, however, whether any formal proposition was laid

15th of December Cass expressed in the Senate his hope that the Administration would bring this to pass.[1]

Was this statement a mere shot in the air, which, wholly by chance, hit the mark? Cass's position in the Senate was too important to permit of his giving expression to such ideas lightly, and he had shown himself at other times too deeply versed in the policy of the President to let it seem improbable that he had, on this occasion, been informed of Polk's plans and wishes. And the acquisition of California was, by this time no longer a mere wish of Polk, but his steadfast plan, which had already reached the first stage of its accomplishment. The instructions to Slidell, which the President refused to communicate officially to the House of Representatives, two years afterwards, had quickly found their way into the public press, and had laid bare Polk's policy to the light. The President thought he had, in the old claims against Mexico, an excellent means of reaching a settlement on the boundary question.[2]

before the committees of the two Houses. The state of things in 1842 was not favorable to the united action of the different branches of the Government, on such a subject." In the correspondence of the *North American* of June 17th, 1846, referred to, we find: That after a satisfactory answer had been given by Lord Aberdeen, "conferences were then held with Mr. Almonte, the Mexican minister. At first he declined to receive the suggestion, but gradually gave way to the weight of argument and inducement which were presented. Finally, Mr. Webster succeeded so far in these informal negotiations as to lay the subject before the Committee on Foreign Relations of the two Houses."

[1] "If this Administration could crown its labor of acquisition * * * by the peaceful annexation of California, it would secure imperishable honor for itself, and would command the lasting gratitude of the whole country." Deb. of Congr., XV., p. 274. Yancey said distinctly: "We are on the point, too, of purchasing the magnificent territory of California." Ibid., p. 318.

[2] "Fortunately, the joint resolution of Congress for annexing Texas to the United States, presents the means of satisfying these claims, in perfect consistency with the interests as well as the honor of both Re-

Mexico had, he considered, an excellent opportunity thus afforded to her to rid herself finally of this burden and to earn a considerable sum of money besides. Polk's liberal offer was that the United States would itself pay the American claimants and would besides pay Mexico $5,000,000 for New Mexico, or would assume the claims and pay $25,000,000 besides for New Mexico and California.

This construction of the annexation resolutions is, perhaps, the most glittering example the history of the world affords of skill in interpretation. Slidell was to open negotiations upon the question, not as to whether the Nueces or the Rio Grande, but as to whether the Rio Grande or the Pacific Ocean, should be the boundary. If Mexico had been willing to regard the matter from the tradesman's standpoint, she would probably have done well to accept the offer, for she certainly had scant chance of defending these territories permanently from her too powerful neighbor, if the latter were once determined to annex them. But Mexico would have had to have lost the last traces of honor if she had now, after repeatedly declaring that the annexation of Texas would necessarily be equivalent to a declaration of war, voluntarily surrendered an additional and boundless territory to the United States for base gold, even if Polk's offer had been increased a hundred fold. An unmeasured, sensitive pride, was the one thing which this unhappy people had preserved unimpaired through their endless civil wars. It was much, very much, that Mexico, conscious of her weak-

publics. It has reserved to this Government the adjustment 'of all questions of boundary that may arise with other governments.' This question of boundary may, therefore, be adjusted in such a manner between the two Republics as to cast the burden of debt due to American claimants on their own Government, whilst it will do no injury to Mexico." Slidell's instructions, Nov. 10th, 1845. Exec. Doc., 30th Congr., 1st Sess., Vol. VIII., No. 69, pp. 37, 38.

ness, had decided to submit quietly to the annexation of Texas, giving herself only the idle comfort of pompous phrases and high-sounding protests. And that she had wrung this hard resolve from her pride was admitted even by fanatic Southerners.[1] But no Mexican government could yield a single inch further, for even if it had wished to do so, the thing would have become impossible the instant it was attempted.

It seems incredible that Polk and his cabinet knew so little of the Mexican character that they could honestly doubt this.[2] And yet Slidell's mission was certainly not a mere sham, designed only to throw dust in the eyes of the people, and hide the real views of the President; for, in the first place, the offered bargains were not intended to be communicated to the people;[3] and, secondly, Slidell

[1] "The Mexicans, notwithstanding their vaunts and threats, were decided to abandon the territory they regarded as Texas proper, and were prepared to treat for that portion which we regarded as the true boundary. But they, the people, not the government only, were firmly decided not to mix up any less important question with what involved a matter touching their national honor." De Bow Commercial Review, 1st Ser., Vol. II., p. 21. (July, 1846.)

[2] Buchanan says in his instructions to Slidell, Nov. 10th: "Your mission is one of the most delicate and important which has ever been confided to a citizen of the United States. The people to whom you will be sent are proverbially jealous, and they have been irritated against the United States by recent events and the intrigues of foreign powers. To conciliate their good will is indispensable to your success. I need not warn you against wounding their national vanity." Exec. Doc., 30th Congr., 1st Sess., Vol. VIII., No. 69, p. 42.

[3] They were, however, at once a public secret. Even among the best representatives of the press there were persons credulous enough to believe that Polk had found a way to solve the problem of the quarrel with Mexico safely, and in a manner agreeable to both parties. Niles' Reg. (LXIX., p. 244), writes, in Dec., 1845: "With earnestness from time to time we have urged the adoption of the course now pursued by the administration in relation to these difficulties, and as often expressed the confidence that if it were adopted the obvious interests of both countries would at once lead to an amicable adjustment. * * *

had been instructed to use great forbearance in order to accomplish the chief aim of his mission.[1] He did not, however, cherish any very great expectations of success, and therefore he kept everything ready in Texas to spring the mine in case diplomacy did not succeed. If diplomacy did conduct him to his goal, he was content; but if not, he was then irrevocably resolved to "force a crisis,"[2] as the New York *Courier* put it in January, 1846.

Of all this, not only the great public, but Congress itself, knew nothing. The belief which Webster expressed during the first days of the new administration, that Polk

Mexico has every inducement to preserve peace with the United States if she can do so with honor and safety. Her government is heavily in debt to citizens of other countries as well as to the United States, and without the means to meet those obligations. The United States would be exceedingly glad to obtain suitable ports upon the Pacific for the accommodation of her shipping in that sea, and would not hesitate to give a liberal consideration for territory there, which Mexico finds it now exceedingly difficult to retain even a semblance of authority over. No man can shut his eyes to the results of the current of emigration, now but commencing, but which will be as impetuous and overwhelming as has been the wave of emigration for the last century from east to west, and which no human power could have arrested, and which it would be but folly now to attempt to arrest. The Mexican government cannot fail to appreciate the progress, and would be unwise not to avail itself of a price now for what in a very short time would inevitably pass from her control, whether she would or no. That our new envoy to Mexico carried with him instructions of ample scope to embrace the transfer of territory alluded to, and to allow a generous consideration for it, we considered beyond doubt, from the moment it was known that he had been appointed."

[1] "Your instructions direct me to bear and forbear much for the purpose of promoting the great object of my mission." Slidell to Buchanan, Dec. 17, 1845. Exec. Doc., 30th Congr., 1st Sess., No. 60, p. 25. (1846 is of course a misprint.)

[2] "We hope our government will promptly force our Mexican affairs to a crisis."

would be afraid to provoke a war,[1] thus still seemed well founded, at least to all those who wished peace to be maintained.

[1] "That Mr. Polk and his cabinet will desire to keep the peace, there is no doubt. The responsibility of having provoked war by their scheme of annexation is what they would greatly dread." Webster to Fletcher Webster, Wash., March 11, 1845. Webster's Priv. Corresp., II., p. 203.

CHAPTER V.

Signs of the Times.

Joseph Story, who followed with a care full of apprehension the course of the question of annexation, through all the phases of its development, had already written his son, January 25, 1845: "However, the present crisis will soon be forgotten and forgiven by the people, and we shall go on as we may until by some convulsion we come to a full stop. When that will be, I pretend not to prophesy. You may live to be a witness of it."[1] The great jurist did not deceive himself. Every word of these sentences found its fulfillment.

High as the flood of excitement had risen, quickly did the waters ebb back, when the resolutions for annexation had been adopted by both houses of Congress. Here comfort was found in the reflection that apart from the slavery question, the acquisition opened glowing prospects for the future. There, men followed the impulse of the national temperament, which never finds much pleasure in looking back, and would rather live in to-day and to-morrow than grieve over yesterday. And almost everywhere men saw in the conclusions of the lawful authorities of the land the irrevocable decision of the question, and rejoiced in rest after the hot struggle.

Even in Massachusetts affairs immediately assumed an essentially different aspect. As the flames of a burning house rise highest to heaven at the instant of its collapse,

[1] Jos. Story to William W. Story. Life and Letters of Joseph Story, II., p. 511.

but at the next moment sink so low that the spectators look on the display as ended, and begin to scatter, so the Legislature declared, it is true, immediately after the annexation resolutions had received the approval of the President, that it could not recognize them as lawful and binding; but many members evidently voted unwillingly for the resolution which Charles Francis Adams reported.[1] Many of the most distinguished and influential Whigs, such as Ex-Governor Davis, Winthrop, and Nathan Appleton, refused to take part in any further agitation against the annexation. If the aggressive policy of the slavocracy had for a short time had a consolidating effect upon the party, and, in regard to this one question, had more or less broken down the barriers between it and a part of the Democracy, it now led to further friction, which was of no small significance on account of the already existing lack of cohesion in the party.[2] While the more conservative elements stepped aside, anxious and out of humor, the more determined and belligerent spirits drew nearer to the Abolitionists. Thus, not only did Story's expectation that the great majority of the people would soon be indifferent to the fact of annexation, begin to be fulfilled, even

[1] Wilson, History of the Rise and Fall of the Slave Power in America, I., p. 636.

[2] Adams said, October, 1821, to an anti-Texas convention: "We fought the battle last year, and lost it; and I will not say why we lost it. But I will say that your own situation is owing to your own party divisions; and I will add that unless you can agree to act together, you will always be defeated in like manner. Look at Massachusetts, divided into I do not know how many parties, and then look at the South, united in all that concerns slavery as the heart of one." Ibid., p. 644. As early as the 4th of January Story had written to S. Greenleaf: "I have been not a little vexed with the division among the Whigs in Boston. It argues ill for our future prospects, and I could ill afford at this moment to have our strength impaired, or union broken." Life and Letters of Jos. Story, II., p. 511.

in Massachusetts; but here, also, there were signs that the other part of his prophecy would soon be made true: that is, that the repose would be deceitful, and that new and more violent convulsions would have to be met.

The sinking back of the people into their ordinary every day frame of mind, of course necessarily influenced the mode of warfare of the little minority who would not yet abandon the field. However displeased they were with Appleton's saying that it was not good policy, and was a waste of strength to struggle for the impossible,[1] they could not blind themselves to the fact that it really was impossible to hinder annexation now. In all their steps there appears the confused and depressing consciousness that their thrusts were blows in the air. But they struck still stronger blows, only putting aside the concrete question which lay immediately before them, and satisfying themselves with the defense of the great general principles which lay at its foundation. And in regard to these, the people had not fallen into apathy. The long struggle over annexation had opened many eyes which had hitherto been struck with blindness. The thorn of the political rule of the slave holding interest had been pressed deeper into the flesh of many, and a still greater number, by a louder and clearer condemnation of slavery "in principle," sought refuge from their own consciences for having allowed or helped the slavocracy again to win a victory.

It made a great impression that now an enemy of the slavocracy arose in its own camp, an enemy who had the

[1] "I cannot take part in this Texas movement. For all practical purposes, as far as the people are concerned, I consider the question as settled. I have opposed it, and contributed funds to oppose it so long as there appeared a chance of preventing it. Massachusetts has done her duty, and her senators and representatives will continue to do theirs. Beyond that I cannot think it good policy to waste our efforts upon the impossible." Wilson, l. c., p. 646.

courage to preach in that camp a crusade against it with as much recklessness as if he stood in Faneuil Hall. Cassius M. Clay, of Kentucky, a relative of Henry Clay, and himself a slave holder, had become at Yale College, in opposition to the numerous "northern men with southern principles," a southern man with northern principles.[1] He made his political début in the State Legislature (1835) by a proposition to introduce into Kentucky a general free school system on the plan of the common school system of the northern states, but he had to confess that the quagmire of slavery could not sustain this broadest and finest foundation of free institutions.[2] He began his open campaign against slavery in 1841, when the champions of the slave holding interest demanded the repeal of the law of 1833, which forbade the importation of slaves into the state. He had been chosen to the Legislature upon this issue, although his opponent was a talented and very wealthy young man, of distinguished family, and the number of slaves in his county was very great. Yet, despite this, his opponents had no reason for being so surprised and angry, for Clay really championed the interests

[1] He himself protested once against this characterization, but it is nevertheless just.

[2] Three years later, indeed, a common school law was passed, but, Clay declares, "before 1840 I was firmly convinced that universal education in a slave state was impossible!" The Writings of Cassius Marcellus Clay, edited by H. Greeley, p. 175. It is true, as late as 1841, in the State Legislature, he challenged Calhoun, the representative of Breckenridge county, and the leader of the slavocrats: "Let him tell us again, as we have been told before, that slavery stands in the way of education: let him be consistent: let him bring in a bill, as I am told he threatens to do, to abolish the common school system: let him monopolize the learning as well as the wealth of the country." (Ibid., p. 75.) But in April, 1844, he is obliged to confess complainingly: "To this insignificant minority [of slaveholders] we have sacrificed common schools—we cannot sustain them." Ibid., p. 141.

of the slave holders as well as the state, since the price of slaves must evidently have fallen if their importation had been permitted. He was attacked in such threatening tones as an abolitionist that he denounced with scorn the vain attempts to frighten him by threats or bowie knives; and, yet, he himself presented to the abolitionists a scarcely less rugged front than his most violent adversaries.[1] He held himself on the defensive against both sides with the same exclusiveness, but with the same decision. Against the abolitionists he appealed to the legal rights of the slave holder, and on the ethical side of the question, he demanded freedom of conscience. Against the slave holders, he sought to prevent any kind of a change in the limits set to slavery by the constitution, the law, and the public will, because, from every point of view, it influenced for the bad the development of the state.[2]

A thoroughly honorable and deeply moral nature, like that of Cassius M. Clay, could not long remain in such an ambiguous position. He was never a clear thinker. His impelling force was, and remained, feeling, which reacted, on every stimulus, too vigorously not to involve him often in glaring inconsistencies, both in his thoughts and acts. But forward he had to go, because the conflict between slavery and freedom went on developing without a check. In the struggle against the annexation of Texas, he stood

[1] As late as December, 1843, he says: "They [the abolitionists] are few indeed, and deserve, as they receive, the execration of good men in both the north and the south." Ibid., pp. 87, 88.

[2] "I am no reformer of governments. I leave slavery where I found it. It is not a matter of conscience with me; I press it not upon the consciences of others; 'let him who formed the heart judge of it alone.' I admit, with the gentleman [Calhoun], the antiquity of slavery, that it has existed from time immemorial to the present day; yet, sir, in all that time I find nothing to commend it as a source of wealth, of glory, or of humanity." The Writings of Cassius Marcellus Clay, edited by H. Greeley, p. 60.

among the first, and his method of fighting was well adapted to make him the best hated man in the south. It might have been easy to forgive him for trying in Kentucky, with his passionate, glowing eloquence, to open the eyes of the people to the great evil which slavery was to the south; for men had to recognize, against their will, the courage of the man, and they thought that they could regard his denunciations as practically harmless declamation, as long as they could answer him with the question: Are you not a slave holder yourself? At home they told each other home truths now and then, and made much less ado about them than was made over much more harmless criticisms from northern mouths. Every such saying, indeed, found its way into the northern press as surely as if it had been said upon that side of Mason and Dixon's line, but it was supposed that the north should not and could not use such family confidences to attain its ends. It, therefore, seemed a sort of treason and base, when Clay now traveled through the northern states, and there, before the forum of the stranger and the enemy, with the same recklessness as if at home cried out his complaints against slavery and the slavocracy. That he was zealously agitating at the same time for the election of Henry Clay to the Presidency, served rather to increase than to diminish his guilt, in the eyes of the southern Whigs, from whom he might else have expected a milder condemnation than from the Democrats. Even if Henry Clay had really been as determined an opponent of annexation as his cousin asserted, and if all the southern Whigs had shared these views of their leader, yet his praise, from such a mouth, could only have hurt his cause in the south, for there, by this time, Cassius M. Clay was generally held to be an abolitionist.[1]

[1] "Whilst I was battling in the north, in a triangular fight, with

His cup was well nigh full when he returned to Kentucky after the unfortunate issue of the presidential election. But he spoke in a far more impressive tone, and his war-cry had now quite another sound in the ears of his hearers, because he had strengthened the creed which his lips professed, by his acts, and had given freedom to his own slaves. He now formally submitted to the whole "people of Kentucky," his confession of faith in an address: "I proudly aver myself the eternal enemy of slavery," and "Kentucky must be free,"[1]—these two sentences give its substance. He would no longer be contented with attacking slavery at one point or another, but, as far as concerned his own state, would open fire against the evil, along the whole line, and would end the struggle only with its destruction. The slavocracy could not disregard this declaration of war, with ironical laughter, for the "and I *will* be heard," with which Garrison had come before the people, had shown too conclusively what a power a thoroughly convinced man was; and the proof of Clay's assertion that Kentucky had not the same interest as the planter states in the maintenance of slavery, and that the 96 per cent. of her people who were not slave holders, had the highest interest in the abolition of slavery, was too easy and too clear, not to cause them to fear lest his arguments should gradually make their way. As he now turned without delay to the accomplishment of his programme it quickly appeared that he was not pouring water into a sieve.

Whigs, Abolitionists, and Democrats, for the postulate that 'what the law makes property, is property,' and that all good citizens should abide the law, till they can, in a legal and constitutional manner, conform it to their conscientious standard of morality; the southern press was denouncing me as wishing to employ the army and navy of the United States in the liberation of the slaves." Address to the People of Kentucky, Ibid., p. 173.

[1] Ibid., pp. 174–183.

June 3, 1845, there appeared at Lexington the first number of the weekly paper, *The True American*, which, according to the prospectus, previously published by Clay, was to aim to accomplish, by discreet argument, the gradual abolition of slavery in Kentucky by legal means. Even before its first appearance, the paper excited the public interest to a high degree. It had to devote its first leading article to the enemies who had denounced in different papers all discussion of the slavery question, and had demanded its forcible suppression.[1] It could boast, upon the other hand, that it started into life with about three hundred subscribers in Kentucky, and about seventeen hundred in other States. A few weeks sufficed to negative any doubt that it would shortly be a power. Not only did the number of its subscribers grow with alarming rapidity, but it began to exert a contagious influence upon other papers.[2] The frightened slave holders deter-

[1] Address to the people of Kentucky. Ibid., p. 213 Seqq.

[2] "On the 3d day of June * * * the *True American* was issued from the press, having about three hundred subscribers in this State, and about seventeen hundred in the others. On the 12th day of August, 1845, the last number of this paper was sent to about seven hundred subscribers in Kentucky, and about twenty-seven hundred in the other States of the Union. * * * That my readers in Kentucky should have run up, in this short space of about two months, from three to seven hundred, in the face of all the violence and proscription of the enemies of emancipation, voluntarily, without any agencies, and without the distribution of circulars or papers on my part, is a most extraordinary circumstance. And when we reflect that about twenty persons read the paper of each subscriber—making fourteen thousand readers in Kentucky—it proves beyond all controversy, that the principles and tone of my press were taking a powerful hold upon the mind and affections of the people.

"The Democratic papers were comparatively silent. The Whig press was largely in my favor. The *Christian Intelligencer* soon raised also the standard of emancipation. The people of Louisville had taken the initiatory step for starting a similar paper there. A Democratic print of the Green River section—the most pro-slavery part of

mined to root up the poison-plant before it had grown too great. On the 14th of August "a number of respectable citizens" resolved to "request" Clay to cease the publication of his paper, because it endangered the peace of the commonwealth, and the safety of their families. The committee which acquainted him with this resolution, and upon which two of his most bitter personal enemies had been placed, explained that they did not "approach him (you) in the form of a threat," but exhorted him to consider well that his own safety depended upon his answer.[1] Clay, who was so sick that he could scarcely hold his pen, replied: "Traitors to the laws and constitution cannot be deemed respectable, by any but assassins, pirates, and highway robbers. * * * I treat them with the burning contempt of a brave heart and a loyal citizen. I deny their power and defy their action."

If this had been his last word, his name would, perhaps, stand in bold letters upon the pages of the history of his country, while now he has found a place only, as it were, in a foot-note. He took appeal after appeal to the people, and day after day he lowered his tone more and more. Instead of simply standing firm upon the ground of his legal

the State—had copied an article from the *True American*, showing the ruinous competition of slave labor with that of the whites, and seemed ready to wage a common war. For the first time since the formation of the constitution of the State was a political party organized for the overthrow of slavery in a legal way; and in the most populous city in the commonwealth a candidate was announced ready to fight the battle upon the stump. A convention of the friends of emancipation was proposed to be held on the 4th day of July, 1846, and met the approval of many able and patriotic citizens. The principal movers in this cause were slave holders, so also were a majority of the readers of the *True American*. And the great mass of laborers, who are not habitual readers of newspapers, began to hear, to consider, and to learn their rights, and were preparing to maintain them." Ibid., p. 302.

[1] Address to the people of Kentucky. Ibid., p. 290.

rights, he sought to prove, at painful length, that he was not as black as he was painted, and declared himself ready to vindicate himself at the mass-convention his enemies had called for the 18th of August.[1] He acknowledged that his paper had not always been managed with proper moderation and discretion, and promised that in the future, he would confine the discussion in its columns within much narrower limits. Naturally, neither his excuses nor his promises made the least impression upon his enemies, who had already aroused the staunch mob of the surrounding country to ensure the full accomplishment of their plan. A committee of sixty men, behind whom stood an enormous multitude, demanded the keys of Clay's office from the mayor of the city, to whom they had been delivered in accordance with a judicial order. The mayor quieted his conscience by remarking that the gentlemen were about to perform an unlawful act, and then gave them the keys. Everything was done in the most beautiful order. The committee packed up the press and the types of *The True American* and sent them to Cincinnati.

This did not put an end to the paper. Clay remained in Lexington, and *The True American* continued to be written and dated there, but was thenceforth printed in Cincinnati. But its charm was broken. In such contests a step backward in a critical moment is irrevocably lost ground. Nothing justifies the supposition that fear led Clay to come to an agreement with his opponents, although, in his then bodily condition, such a paroxysm of

[1] "But to you—a far differently organized body, and a constitutional assemblage of citizens—I feel that it is just and proper that I should answer at your bar." Ibid., p. 298. As far as regards constitutionality, there was absolutely no distinction between this assemblage and the "private caucus," as Clay calls the first gathering.

weakness would have been intelligible and excusable. The half-heartedness of his position and the lack of clearness in his thoughts and feelings in regard to slavery made it from the first impossible for him to stand such a fiery ordeal. There was, indeed, no party whose creed in regard to slavery was not full of contradictions upon the actual and legal relations of the question; nay, there was not a single man in the Union who had attained to the full knowledge of the fact that these actual and legal relations were such a net-work of contradictions that the solution of the slavery question could never be reached by the unfettered decisions of the people, but only by events of elemental power. But so much the more had the leaders in the struggle against slavery, to stand unfalteringly by their words, for it was necessary to rouse the people out of their moral indifference, to modify essentially their traditional methods of thought and action, and to inspire them with a spirit of self-sacrifice in a long, heated, and, at first, almost hopeless struggle, which would necessarily result in much discomfort, much bitterness, and serious hurt to their material interests. On account of this general lack of clearness, not fully recognized, but yet vaguely felt, the first demand which the people made upon their leaders was not that they should be able to say yea and amen to every word of their programme and their argument. The people were contented if they could feel themselves in accord with the general tendency of their leaders, and if the latter manifested a strength of conviction which, like a strong staff, could give steadiness and firmness to their own uncertain steps. Where men thought they could find such full conviction, there they were ready to answer more loudly the call of their leaders, than these latter had themselves ventured to hope. The great significance of this short episode in Kentucky lies in this, that the

history of *The True American*, up to August 14, 1845, had brought this fact so clearly to light, even in a border State.

Yet still more significant was the proof that one of the Northern States gave at almost the same time.

New Hampshire, although a Democratic stronghold at the north, had, like Vermont and Massachusetts, taken a firm position against the annexation of Texas. But when the national convention in Baltimore decided otherwise, and Polk was chosen, then the Democratic party in the state went over to the annexationists with flying colors. Among the leading politicians only John P. Hale remained true to his former faith. This revolt against party discipline was instantly punished in the most ruthless way. Although the party had already formally declared itself in favor of his reëlection to Congress, he was now unanimously thrown overboard by a convention called for just that end, and another candidate nominated. The great majority of the party naturally followed its leaders like sheep, but a minority was not ready to believe, upon their assurance, that what had only yesterday been "black as ink and bitter as hell," was now white and sweet. This minority was strong enough to prevent a choice. At the next election the Democrats still fell short some hundreds of votes more of the necessary majority. Hale's seat in the House of Representatives remained unoccupied during the whole session of the twenty-ninth Congress, but he himself obtained, in 1846, a seat in the State Legislature, presided over the deliberations of the House as speaker, and in the following year was chosen United States Senator. In the same year a coalition of allied Whigs and "Independent Democrats" succeeded in electing Tuck, the leader of the revolt against the state platform, to the House of Representatives. The coalition had won a glori-

ous victory. From now on New Hampshire was always to be found in the foreground in the contests against the slavocracy. Hale, who had himself thought that he had put an end forever to his political course by his faithfulness to his belief, was rewarded for it by being raised to a round of the ladder, which he otherwise might never have reached, and the politicians were warned from a source whence it was least expected, in an impressive way, that the people of the North, following the example of the South, were beginning to be willing to put into the background all party questions except that of slavery.

Previous experience showed that it was not to be expected that the South would take this lesson to heart. Up to the present time any restiveness of the North under its yoke had made the South only the more dictatorial and unmeasured in its demands, and it had almost always found its reckoning in this. At the same time that the struggle over annexation reached its culminating point, a contest was carried out between two states, the champions of the opposing sides, the course and issue of which must have strengthened the slavocracy, in the highest degree, in the belief that this policy, now as before, was its only proper one.

South Carolina had passed a law, in 1820, by which she sought to protect herself from the evil influence which might be exerted over her slaves by the free colored men, who belonged to the crews of the foreign or American ships which entered her harbors. In the course of years the law received some modifications, but its main character remained unchanged. As long as the ship lay in the harbor such colored men were to be imprisoned, the captain was to bear the cost of their imprisonment, and was commanded to take them away with him upon his return voyage; if he did not do so, he must pay a heavy fine,

and suffer besides an imprisonment of at least two months, and the colored men were to be sold as slaves. These were the main provisions of this law, which, as a product of a Democratic republic in the nineteenth century, well deserves a prominent place in every collection of historical curiosities.

As early as 1823, twenty-six ship-masters had complained to Congress against this atrocious offspring of a freedom based on slavery. But Congress either considered the matter as too unimportant to bother itself about, or else considered it prudent to let such a ticklish question alone. But when England in the following year made complaints, the President asked Attorney-General Wirt for an opinion, and the latter declared the law unquestionably unconstitutional, because Congress alone had the right to regulate commerce between foreign nations and between the states.[1] South Carolina now shut her eyes to the English ships which had free colored men on board, but took not the slightest notice of Wirt's opinion, so far as American vessels in the same condition were concerned. After a few years she again ventured to try to enforce the law against England. England again complained, and now Jackson asked for an opinion from his attorney-general, Berrien, of Georgia. It was of a very different sort. The question had seemed so simple to Wirt that he had thought it possible to elucidate it and decide it in a few simple but sharply formulated sentences. Berrien wrote a long plea, which skillfully obscured what had been clear, and was not a calm, objective enquiry into the question of

[1] "All foreign and domestic vessels complying with the requisitions prescribed by Congress have a right to enter any port of the United States, and a right to remain there, unmolested in vessel and crew, for the peaceful purposes of commerce." Opinions of the Attorneys General, 1., p. 660.

law, but a sly, pettily handled and unrighteous argument of an attorney for the constitutionality of the law. In every word speaks the slave-holder, who, whether consciously or unconsciously, considers it a matter of course that he has to plead for the slave holding interest. It is not denied, he says, that the several states have reserved the police power. Their police regulations are, indeed, subject to national laws, but only when the latter, according to the provisions of the constitution, are "necessary." If the national government can fully accomplish its constitutional tasks through laws which do not come into conflict with the police regulations regarded as necessary by the states, Congress is then obliged to pass only such laws, for then, laws which do conflict with the police regulations of the states are, evidently, not necessary.[1] This was the old reasoning of the radical states-rights party, which made the constitutionality of national laws depend upon whether the states did or did not recognize them as neces sary. Congress must not only ask what sort of laws are "necessary and proper" for the regulation of trade with

[1] "I repeat the concession, that the powers granted to Congress are supreme. Whatever is indispensable to their plenary exercise, the legislature of the Union has the power to enact, and state legislation must bend beneath its sway. But if the means by which such granted power may be carried into effect are various, and alike efficient; if its exercise in one mode will consist with the unfettered exertion of the reserved powers of the States, while the use of a different means will, by producing a conflict with State legislation, paralyze the reserved rights of those sovereignties—the selection of the former mode becomes, I apprehend, a duty of constitutional obligation. * * * But if, for the purposes of the constitutional grant, the power may be exercised without producing such conflict, the obligation so to exercise it is imperative; because, in this event, the law or regulation which produces such conflict is not necessary, and therefore is not proper to carry that power into effect." Opinions of the Attorneys General, II., pp. 434, 435.

foreign nations and between the states, but it must also first enquire what sort of police regulations all the different states have thought best to regard as necessary to their safety; and it must then consider how so to frame its commercial laws as not to conflict with these regulations. Berrien did not, or would not, see that this principle led to the absurd conclusions, that any state, at any moment, could demand a change in the national laws in regard to commerce, in order to make them conform to some new police regulation, which it had thought fit to pass. He broke off the argument when it began to lead to unpleasant conclusions. He preferred to make the assertion that South Carolina rightly regarded such free colored men as worse than a pestilence, and he deduced from this assertion the constitutionality of her police regulation, because of course the validity of the quarantine laws of the states could not be doubted.[1]

It happened to Berrien, as it so often does to people who champion a bad cause, that he tried to prove too much and thereby awakened only distrust of his own belief, in his whole argument. He asserted that the colored man, Daniel Fraser, concerning whose case England had complained, had been forbidden to enter the harbor of Charleston by the national law which bore the title "an act to prevent the importation of certain persons into certain states where

[1] "Is the right of self-protection limited to defense against physical pestilence? It would be too revolting to arrogate to the Federal Government a power which would deny to a State the right of guarding its citizens from the contagion of disease. When the peculiar situation of the slaveholding States is considered, would it be less, nay, would it not be infinitely more revolting to withhold from them the power of protecting themselves as they may, against the introduction among their colored people of that moral contagion, compared with which physical pestilence, in the most imaginable extent of its horrors, would be light and trifling?" Ibid., II., p. 434.

by the laws thereof their admission is prohibited." The "certain persons" were negroes, mulattoes, or other colored people, who were not natives, citizens, or registered seamen of the United States, or seamen born in the countries beyond the Cape of Good Hope. Berrien declared that the prohibition extended to all colored people, freemen as well as slaves, with the exception of the classes named, and argued that the law-makers had shown themselves fully aware of this, because they had inserted the express condition that Indians were not to be included.[1] But I cannot at all see why this proviso signifies anything whatever, except that Indians were not "colored persons" in the sense of the law. Here again, also, Berrien did his cause no good service by trying to put it in too favorable a light. And in fact his cause stood upon the most precarious props, although the wording of the law, taken quite by itself, certainly justified his interpretation. But he knew well enough, that, under the circumstances of the case, such an interpretation did not correspond with the true intention of the law-makers. Why did he omit to give the date of the law, which was absolutely essential to a full understanding of this intention, while he gave the date of other laws, when it was of no importance whatever? The act was passed, February 28, 1803,[2] and its only aim was to protect at that time those states which wished it from the importation of slaves, which Congress could not forbid until January 1, 1808. Therefore, also, its express repeal had not been considered necessary, when the general prohibition came into force. The fact that it did not say "slaves" where it meant slaves alone, and therefore made possible the interpretation for which Berrien contended, is in accordance with the constitution, in which the word

[1] Opinions of the Attorneys General, II., p. 441.
[2] Stat. at L., II., p. 205.

"slave" nowhere occurs, and which provides that "the importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by Congress prior to the year 1808." This is most clearly apparent from the fact, that the title of the act speaks only of "importation." This justifies the conclusion that the "bring" which is added in the text is not to be construed in the widest sense of the word. The penalties prescribed prove, beyond doubt, that the law-makers were thinking of slaves exclusively. What foreign power would have quietly permitted its vessel owners to incur not only a fine of one thousand dollars, but also the confiscation of their ships, simply because a colored sailor or scullion happened to be in their crew and to go upon shore in certain American ports?[1] It was more than absurd to assert that Congress, in enacting these provisions, had thought of free colored persons. The attempt had never been made to carry out the law in the case of violations of this interpretation of it, and Berrien himself had not the front to reproach the federal officials because they had not attempted to do this.

This opinion of Berrien's was well adapted to direct the attention of Congress and the people in the most emphatic way to the barbarous police regulations of South Carolina and of the other slave states which followed her example. But years elapsed before the matter was again anywhere discussed, and then it was very difficult to force the public to take any interest in it. Finally, in 1836, a few aboli-

[1] The phrase, "if any such negro * * * *shall be landed* from on board any ships," etc., is a further proof, that the law related only to persons who were not masters of their own actions, that is, were slaves. In the table of contents of the Statutes at Large, in which the official title of each law is preceded by a short statement of its contents, this law is headed: "Importation of slaves prohibited, when their admission is prohibited by the laws of states."

tionists brought it before the Legislature of Massachusetts, but it was not until 1839 that the Legislature made a weak attempt to make effective the prayers of the petitioners. It passed some resolutions which protested against these laws, and authorized the Governor to interest himself in behalf of colored people from Massachusetts, against whom they were enforced. The slave states concerned did not take the slightest notice of these resolutions, and therewith the matter rested for three years more. Moved by new complaints and petitions to renewed and more decisive action, the Legislature of 1843 authorized the government to send one agent to Charleston and one to New Orleans, in order to gather precise information and to obtain, if possible, a judicial decision upon the constitutionality of these laws. Since the agents named by the Governor remained quietly at home, the resolution had to be renewed in the following year. This time, the commissioners did not shun the difficult task.

November 28, 1844, Samuel Hoar, of Concord, arrived in Charleston. His age, his fame as a jurist, the general and high esteem which he enjoyed in his own State, and especially the prudent moderation and dignified courtesy with which he sought to discharge his mission, ought to have ensured him a reception, if not cordial, at least thoroughly polite and respectful. He immediately acquainted Governor Hammond with the purpose of his visit, and on the following day, he requested the mayor of the city to give him access to the records concerning the imprisonment of colored seamen, and other citizens of Massachusetts, in order that he might finally select some cases, which were in proper shape for obtaining a judicial decision upon the validity of the law, concerning which Massachusetts felt herself justified in complaining.

Hammond, a fire-eater of the worst sort, immediately

consulted with the Legislature, which seized with the greatest arrogance the unequalled opportunity of proving to the world that it could rightly draw from this horrible and atrocious police regulation a conclusion as to the spirit which filled the law-makers of the State. With shameless front, a committee of the House stigmatized Hoar's mission "as part of a deliberate and concerted scheme to subvert the domestic institutions of the Southern States." The House did not lag behind its committee. By 119 votes against 1, it passed an array of resolutions, which culminated in a request to the Governor to expel Hoar from the State, as a confessed disturber of the peace.[1] The Senate hastened to show that it was equal to the House in patriotism and heroism, and, in order to make assurance doubly sure, the Legislature passed a law, which opened a terrible battery of fines, imprisonment and banishment on the audacious men who dared to tread the soil of the State with such criminal purposes as those of Hoar.[2]

The officers and citizens of Charleston showed themselves thoroughly worthy of the Legislature. The sheriff informed Hoar that the popular excitement made his stay in the city dangerous in the highest degree, but then ex-

[1] "*Resolved*, 2d, That free negroes and persons of color are not citizens of the United States, within the meaning of the Constitution, which confers upon citizens of one State the privileges and immunities of the several States.

"*Resolved*, 3d, That the emmissary sent by the State of Massachusetts to the State of South Carolina, with the avowed purpose of interfering with her institutions and disturbing her peace, is to be regarded in the character he has assumed, and to be treated accordingly.

"*Resolved*, 4th, That his excellency the Governor be requested to expel from our territory the said agent, after due notice to depart, and that the Legislature will sustain the executive authority in any measure he may adopt for the purpose aforesaid." Niles, LXVII., p. 227.

Niles' Reg. says the resolutions "were * * * afterwards concurred in, unanimously, it is believed, by the Senate."

[2] The law is given at length in Niles, LXVII., pp. 346, 347.

pressed his willingness to agree with him upon a case to be submitted to the Supreme Court of the United States. This offer, which Hoar readily accepted, was withdrawn the next day, and the declaration that Hoar's personal safety required his immediate departure was repeated. All manner of leading citizens who visited him at his hotel urged upon him not to neglect this good advice. They assured him, as did the attorney-general of the State, that they would greatly regret it, if the mob should lynch him, but they declared that this was unavoidable, if he did not lay to heart there well-meant warnings. Upon the street, unknown individuals gave him the same advice in rougher form, and idlers began to form threatening groups in the neighborhood of his hotel.

Hoar replied to all warnings and all threats politely, but firmly that he had been entrusted by the Governor of Massachusetts with a peaceful and legal mission, and that he would remain until he had done everything that lay in his power to accomplish it. Since all the public authorities, and the whole population, were unanimous in opposing him, he had, however, soon to come to the conclusion that further resistance would only expose him to useless martyrdom. At last even the keeper of his hotel prayed the city government to free him from the unwelcome guest who was endangering his house. "To fight with you," said Hoar finally, "would be foolish, and I am too old to run." He maintained his principles, for he sharply asserted to the last that he went, not because he wished to go, but because he had to go. When he went the only choice left open to him was either to place himself in a carriage which had been made ready, or to let himself be dragged into it. He would, perhaps, have been dealt with in a much more summary manner if he had not been accom-

panied by a daughter; at least a bank president said to him: "It is that which creates our embarassment." [1]

Hoar closed his report to Governor Briggs with the following sentences: "Has the Constitution of the United States the least practical validity or binding force in South Carolina? She prohibits the trial of an action in the tribunal established under the Constitution, for determining those cases in which a citizen of Massachusetts complains that a citizen of South Carolina had done him an injury, saying that she has already herself tried that cause and decided against the plaintiff. She prohibits, not only by her mob, but by her Legislature, the residence of a free white citizen of Massachusetts within the limits of South Carolina, whenever she thinks his presence there is inconsistent with her policy. Are the other States of the Union to be regarded as the conquered provinces of South Carolina?"

It might have been supposed that these questions were sufficiently important to imperatively require a peremptory answer from the authorities of the Union. Yet, according to all experience, simply nothing was to be expected from this source. In December, 1842, Winthrop, of Massachusetts, had submitted to the House of Representatives a petition of citizens of Boston, in reference to these laws of the slave States, which prayed Congress to take the necessary measures for the removal of the burdens upon trade imposed by them, and for the prevention of the violation of the rights guaranteed to all citizens by the Constitution. The matter was referred to the Committe on Trade and Commerce, which expressed its opinion that only the courts could give aid if the States in question did not voluntarily repeal the laws [2] which were

[1] Niles, LXVII., pp. 315, 317.

[2] The courts, of course, could not act of their own motion, but I am unable to see why it was not lawful, as well as practically possible, for Congress to enact a law on the subject.

protested against. In order, however, to exert at least a moral force upon them, the committee proposed to declare, in the form of resolutions, that these laws were not in harmony with the exclusive right of Congress "to regulate commerce" and were also inconsistent with other essential provisions of the Constitution. But the House voted, by a great majority, to lay these resolutions upon the table, and upon the table now the whole matter was laid, after Massachusetts had given herself the fruitless gratification of publishing to the world a solemn protest against South Carolina's course. The message with which Governor Briggs, January 6, 1845, transmitted Hoar's report to the Legislature, was couched in dignified language;[1] the report upon the affair drawn up by Charles Francis Adams was a well written document, not flaming with passion, but coolly and forcibly stating the facts and the law.[2] The resolutions, which were unanimously adopted, could be unconditionally accepted by every friend of the Constitution, of freedom, and of the sovereignty of the law; but all these were still only words, words, words. Story had already in a letter of January 4, to Sumner, expressed his dissatisfaction that no one seemed to think that anything ought to be done.[3] We do not know what kind of "action" he thought was necessary and the writer of history is not bound to seek

[1] Niles, LXVII., pp., 314, 315.

[2] Ibid., LXVII., pp. 394–398. Story's judgment of the report is as follows: "The declaration report on the South Carolina conduct may be well enough, but it does not satisfy me. I wished it to be full of dignity, but full of spirit; I find it somewhat too cold and too courtly." Life and Letters of Jos. Story, II., p. 514.

[3] "What think you of the conduct of South Carolina with respect to Mr. Hoar? I observe that all the Boston newspapers are silent, and no one seems to think that anything is to be done. The subject deserves very calm, but at the same time very resolute deliberations and actions." Ibid., II., pp. 519, 520

an answer to the perhaps unanswerable question, what Massachusetts could have done beyond what she did do. This, however, did not alter the main fact, that Massachusetts had merely placed a protest on paper among the historical records of the land, while South Carolina gave her not the slightest satisfaction for the insult put upon her, and the unconstitutional laws[1] remained in force. The Federal authorities looked on with folded arms and the people passed on to matters of the day, after they had satisfied themselves with reading newspaper articles about the sensational occurrence.[2]

How can one wonder that the slavocracy fell ever more and more into the delusion, that it could impose simply any burden upon the north, when the latter was not to be aroused by such arrogant insults? Questions which had hitherto been hotly debated, were now settled, in accordance with the views of the south, almost without a struggle. That new free states could be admitted into the Union only when accompanied by new slave states seemed to be already admitted, at least as long as there still remained slave territory to be disposed of. In truth, the difficulty had to be confronted that the free territories developed much more rapidly, but this difficulty was surmounted simply enough by

[1] The Supreme Court of the United States has never given a decision upon the constitutionality of these and similar police regulations of the States, but there are so many other judicial decisions in support of the view which I have taken that the question cannot well be longer considered an open one. The substance of these decisions is given in brief by Bump, Notes of Constitutional Decisions, pp. 29, 37, 40, 49, 50. The reader can easily discover, in the pages named, the references to the question here in hand. Still briefer, and not quite so intelligible, are the remarks by Desty, The Constitution of the U. S., pp. 71, 72.

[2] Hubbard, the agent sent to New Orleans, had substantially the same experience as Hoar in Charleston. Compare Niles, LXVII., pp. 346, 398, 399.

disregarding the conditions, by which the right of the territories to demand admission as states had been limited. In October, 1844, Iowa had given herself a state constitution, and there was no reason at all for delaying her admission as a state under it. But a companion had to be found for her south of Mason and Dixon's line. Florida was selected. Her population had not yet nearly reached the number required, and her application for admission as a state dated from the year 1839. Moreover, the proposed constitution of January 11, 1839, under which Florida wished to be admitted, forbade the emancipation of slaves by the Legislature, and authorized it to prevent colored persons from entering the state. The first provision was a monstrosity in the eyes of a large portion of the population and of the north. The constitutionality of the second was at least questionable.[1] Yet the two territories

[1] Art. IV., Sect. 2, § 1 of the Constitution runs: "The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." Hurd, The Law of Freedom and Bondage in the United States, II., p. 279, remarks on this provision: "The state statutes prohibiting the immigration of free blacks have been enumerated, and the cases noted in which the question of their validity, in view of this clause, has been discussed. [The note on the same page tells exactly when this has occurred.] So far as judicial opinion has been expressed on the question, it seems almost unanimous that these laws would be unconstitutional, were negroes to be held citizens of a State in view of this provision, and also that negroes are not such citizens." But at that time there was no decision of the Supreme Court on the subject, and, not only does the constitution, as it seems to me, offer no support for the latter assertion, but it is undeniable that Congress had hitherto held the opposite view. All parties had at all times agreed that the federal authorities had only those powers which had been conferred upon them by the Constitution. Where, however, were they given the right to determine who was to be a citizen of a State? And if they had not this authority, they evidently also had no right to determine who actually was a citizen of a State, but they were bound to recognize as such all to whom the several States gave their respective citizenship. The Constitution knows nothing of two classes of

which had nothing in common were coupled together in one bill. To gain an entrance into the Union, free, young, strong Iowa had to submit to having strapped to her back Florida which the curse of slavery had made old in infancy. Levy, the territorial delegate, returned thanks on behalf of Florida for this favor by indulging in raging declama-

state citizens; of citizens of states "within the meaning of the Constitution," and of those outside the meaning of the Constitution, or even against that meaning; it only knows "the citizens of the several states." We may have to consider in another place, whether the word "citizens" in the provision of the Constitution already referred to, where it is used for the second time, means indifferently citizens of states or citizens of the United States; here it suffices to point out that Congress likewise, there at least, understood it in the first sense.

Hurd (p. 280) further says: "The resolution of Congress, March 2, 1821, providing for the admission of the state of Missouri on a certain condition, has sometimes been referred to as a recognition, by Congress, of free blacks as citizens under this provision. But it is certainly nothing more than an affirmance or recognition of the provision in the Constitution as it stands, without determining either the personal extent of the terms 'citizens of each State,' or the nature of the privileges and immunities to which they are entitled under it." I do not know why the worthy investigator felt himself bound to consider solely the letter of that resolution, and entirely to overlook its history. By so doing, he has, in my opinion, placed the real connection of things in a false light. Moreover, his interpretation is evidently not even justified by the letter of the resolution. Art. III., Sect. 26, § 4, of the Constitution of Missouri, made it the duty of the Legislature to pass laws: "To prevent free negroes and mulattoes from coming to and settling in this State under any pretext whatsoever." To be sure, as we have already seen, those who required the striking out of this clause as unconstitutional, had not succeeded. They had been forced to content themselves with a "compromise," that is, the final decision of the question of law, as far as such decision by Congress was possible, had been postponed. Nevertheless, the resolution left no doubt as to the views of a majority of Congress on this point. The admission of Missouri is resolved "upon the fundamental condition" that the clause referred to "shall never be construed to authorize the passage of any law, and that no law shall be passed in conformity thereto, by which *any* citizen, of either of the states of this Union, shall be excluded from the enjoyment of any of the privileges and immunities to which such

tion against the north and the abolitionists. He was much displeased because Congress would not pledge itself to create a separate State out of the part of Florida east of the Suwanee whenever its white population reached 35,000 souls.[1]

In the House of Representatives the Iowa-Florida bill had been passed by 145 to 34 votes. The debates over it had not been long nor had they excited a lively interest either in or out of Congress. Stronger irritants were needed in order to produce any noticeable effect upon the deadened nerves. It was not simply the particular, marked manifestations of the arrogance of the slavocracy or its triumph in the questions just now coming to an issue, which were necessarily calculated to cause anxiety to the far seeing patriot. Far worse was the fact that the general condition of affairs became ever more favorable to ever new and ever greater triumphs of the same sort. And the worst of all was that this was either not perceived at all or was not appreciated at its real importance.

citizen is entitled under the Constitution of the United States." (Stat. at L., III., p. 645.) The word *any*, which I have emphasized by italics, proves that in the view of Congress, the provision of the Constitution referred to, speaks of *all* citizens of states; in several states, however, as in Massachusetts and New York, free colored men were expressly recognized as citizens. And, though the resolution, it is true, purposely says nothing as to the exact nature of the guaranteed "privileges and immunities," it is plain that, in the opinion of a majority of Congress, they included the right of abode and settlement in every state, for the entire proviso was meaningless except on this supposition; according to this, Missouri could lawfully close her territory only to such free negroes and mulattoes as were not citizens of other states. Lastly, long before the Missouri compromise, it had been expressly recognized in a federal law, that colored men could be citizens of the United States, and hence, *a fortiori*, state citizens "within the meaning of the Constitution." In the law, above mentioned of 1803, against the importation of colored men in certain states, this is the exception: "not being a native, a citizen, or registered seaman of the United States."

[1] Mem. of J. Q. Adams, XII., p. 167.

The first months of Polk's presidency were externally a time of rest in statesmanship. Whatever was secretly being done on the Mexican-Texan question, the people knew nothing of it. On the Oregon question the people expected nothing decisive before the meeting of Congress. Before this, too, nothing could be done, naturally, in regard to the industrial policy of the country. There was brisk life only among the professional politicians of the victorious party, but they busied themselves, not with the political problems of the immediate future, but with the weightiest of all questions, that of dividing the booty. Although the public had already become accustomed to the idea that a change in the presidency was like an autumn wind to the Federal officials—blowing the dry leaves from the trees—yet it was shocked and irritated by the recklessness with which the official ranks were now thinned.[1] It was said that half of the cabinet would have preferred a different policy, but that the President had decided upon a policy of proscription.[2] Yet if the table had been cleared to the very last seat, place would have been found for only a tithe of the hungry who pressed towards it from every side, each affirming that he had the best claim to a seat at it.[3] It has often been

[1] Adams writes, March 29, 1845, in his diary: "The city is in an uproar at the system of proscription from executive offices upon which President Polk has commenced, and which threatens to be far more extensive than any that has ever before been carried through." Ibid., XII., p. 188.

[2] "The rumors now are that Polk has consulted his cabinet on the principle of political proscription; that Buchanan, Walker, and Mason were against it, Marcy, Bancroft, and Cave Johnson for it, and that Polk himself decided for the turn-out." Ibid., XII., p. 187.

[3] The *Democratic Review*, Sept., 1845, p. 164, says that up to the first of August there had been 4,000 applications for places in the New York custom house, which employed at the outside only 460 persons. "If the same proportion should maintain throughout, there would be

claimed that this very fact is the antidote which the poison of the proscription system contained within itself. It has been said that the politicians who make the spoils the basis of their power beat themselves with their own rods, because for every dependent who is rewarded nine are disappointed, and the latter turn into enemies, while the former usually grumbles because he thinks his services are too poorly paid. Experience, however, has shown that this way of looking at the matter is utterly mistaken. Part of the disappointed multitude cease to harness themselves like draught horses to the party chariot in order to win a place at the State manger; another part abandon, indeed, their fealty to the party chieftain, whom they blame for their disappointment, but with very rare exceptions these, like the others, remain true to the party, unless, indeed, a general disintegration and reconstruction of party relations is taking place. Yet the principal result of the numerous disappointments is, that the office seeker labors only the more energetically and the more recklessly in every conceivable way for the interests of the party and the party leaders in order to have, at the next division

at the present time about 800,000 Democrats actively engaged in impressing upon those in whose hands are the issues of political favor, the great advantage which the State would derive from securing, with the least possible delay, their valuable coöperation." Marcy is reported to have said once to an office-seeker: "Mr. Scott, for every bough of the top of the tree of appointments—for the missions plenipotentiary, for example—there are about one hundred applicants; for the middle boughs of the chargéships, there are about three hundred applicants; and for the lower limbs of the consulships, there are about one thousand applicants. Those who are tired of holding on to the upper boughs of expectancy hope to catch upon the places of the chargéships, if they fail to get the highest; and those disappointed in obtaining the chargéships hope to catch on the limbs below them, * * * making the chance of a consulship about as 1 to 1398." Wise, Seven Decades of the Union, p. 236.

of spoils, a greater claim to consideration than his countless rivals. The results of this are, that the parties constantly run a greater risk of making the interests, not of the State, but of a party, the highest aim of their policy; that the policy of party is prosecuted with increasing unscrupulousness until the political morality of politicians assumes a shape which absolutely cannot bear the light of their own private moral standards; that the political morality of politicians infects that of the people, until finally certain phases of general morals are injuriously affected by the corruption of political morality; and that politics becomes a guild and a profession, and the politicians by profession constantly make the political independence of the people more and more a shadow without substance.

These were facts which were not now discovered for the first time. The finger of scorn had been so often pointed at them that when they were again brought into discussion before the Senate in May, 1846, the debate lasted only a short time, and ended without producing any impression upon the public, because nothing was now said which had not been heard *ad nauseam* before. Sevier, of Arkansas, ironically expressed his surprise that, after every presidential election, the question of removals from office should be served up at the senatorial board.[1] But he was far in the wrong when he asserted that the complaints originated only in the vexation of the opposition at being merely lookers-on instead of sharers in the feast. When Calhoun, in 1836, that is, in the last year of Jackson's administration, wished to stem the evil by enacting a law, that whenever an official was removed the President should acquaint the Senate with his reasons for his action, the

[1] Mr. Sevier thought it very strange that, about the first session of every administration, they were favored with that old question about removals from office." Deb. of Congr., XV., p. 516.

Senate passed the bill by 31 to 16 votes. There is no need of examining the lists of names in order to know that this was not a party vote. That clearly appears from the comparative number of yeas and nays.[1] That this precise measure was proposed then and again at this time, plainly shows both that the disposition of the Senate was partly determined by its wish to maintain its own power,[2] and that it was too much in the dark in regard to the root of the disease to be able to find the proper cure. In many cases the executive, which is responsible for the administration of affairs, would have been hindered by such a measure, and the administration of affairs would have been prejudiced, but party politics would have been by no means banished from the question of offices.[3] But it had already been clearly recognized by some of the leading statesmen that this problem would necessarily become, in the course of time, one of the vital questions of the Republic.

Bad as it was that, every four years, an ever greater throng of federal officials were thrust out of doors, without any regard to the manner in which they had filled their offices, in order to make room for a wholly unskilled crowd, this was in itself, comparatively only a slight evil. A worse feature was, that this quadrennial change in the

[1] Calhoun's Works, IV., p. 293.

[2] Calhoun, Webster, Clay, and many others, were of the opinion that such a provision regarding the participation of the Senate in the right of distributing the Federal offices would merely give the power the extent which it should have had from the beginning, according to the proper interpretation of the constitution. According to their opinion, it was not only a political imprudence, but also contrary to the real intention of the constitution, when the first Congress gave the right of removal to the President alone.

[3] The history of the tenure-of-office bill has since then sufficiently proved this.

offices constantly became more and more the turning point of all politics. The presidential election had gradually become to such a degree *the* question of national politics, that the probable effect of each measure upon this question excited a marked influence upon the whole course of legislation, and the nearer the election was, the more frequently did this become the determining consideration. The politicians had arrogated to themselves the naming of the party-candidate by the device of irresponsible and extra-constitutional nominating conventions and for them the best man was the one who had the best chance of being elected, for their chief interest was to secure the spoils.[1] The real leaders of the party of course usually had substantial political convictions, and were impelled, so far as they acted in their own interests, by the nobler passion of ambition. But they needed the loaves and fishes in order to reward those who had for their sake undertaken to act as wheels and cylinders in the party-machine. The spoils-system had made them dependent upon these obscure elements, and the more indispensable these became, so much lower sank the average mental and moral qualities of the leaders. The most reliable and deftest managers of the machine became the great men in politics, and the more they got control, the more did the empty rattling of the party-machine usurp the place of true politics. The matter had

1 * * * "The principle has extended and extended till, literally, our government has become a government of spoils. Your presidential elections are governed by it. * * * The presidential election is no longer a struggle for great principles, but only a great struggle as to who shall have the spoils of office. Look at the machinery? A convention nominates the President, in which, not unfrequently, many of the representatives of the states join in a general understanding to divide the office amongst themselves and their friends. And thus they make a President who has no voice at all in the selection of officers." Calh.'s Works, IV., pp. 296–302.

already gone so far that the best men of the nation believed, and apparently were partly right in believing, that a question of the overshadowing importance of the annexation of Texas had been determined by the fact that Congressmen had allowed themselves to be won over to the dominant party by the most disgusting means.[1] And such a man as Chancellor Kent was of opinion that the assortment of politicians, who had come to the front with Polk, surpassed all their predecessors in worthlessness and despicableness.[2] But worst of all was the fact that the matter was doomed steadily to become worse still.

As a matter of course, no substantial change for the better was to be expected from a revolution in party relations, even if the experience of the past were wholly disregarded; for the difference in degree of the morality of the two parties, however highly it might be rated, was still only a secondary force. Help could come only by a change of the system which had been adopted by both parties, had been sanctioned in part by law, and had become fixed. But the system constantly struck deeper root, and was constantly systematically fostered, with a full

[1] Story writes, Jan. 25, 1845, to his son William: "As usual the northern and middle States will be divided; the south will unite. Pray, do not ask me how all these things are brought about. I should blush to put on paper what my belief is. There are ample means to accomplish any ends in power and patronage, 'etc., etc., etc.,' and Lord Coke has told us that, 'etc., etc.,' are signs full of meaning in the law. I think they have a still more pregnant meaning out of the law.

"This government is becoming daily more and more corrupt; and the decline and fall of the American Republic will not be less a matter of history in an age or two at furthest, than that of other republics whose fate is recorded in past annals." Life and Letters of Jos. Story, II., p. 510.

[2] "I am quite distressed in my forebodings of the future. I think we have at Washington the meanest party hacks and tools that were ever doomed to curse a republic." Chancellor Kent to Mr. Webster, Nov. 11, 1845. Webst.'s Priv. Corresp., II., p. 212.

consciousness of its significance. By the side of the phrase, "to the victors belong the spoils," was ever more constantly and boldly placed the no less fatal phrase, that continuous rotation in office is a postulate of republican government and of the democratic principle. The administration acknowledged that it was partly guided by this principle in its sweeping removals of officers,[1] and in the Senate Allen, of Ohio, extolled it in a long and fiery speech, as the underlying principle of the American political system.[2] The people have a right to all offices and honors; the people are the only source of all power and must so remain; the people can suffer no privileged classes of officers who would soon feel independent and would scorn the people:—these were arguments which to the "people" seemed unanswerable. When Calhoun argued, on the other hand, that "rotation" in office in accordance with the spoils system was not a Democratic doctrine, but rather tended "to create a king,"[3] this was so utterly unintelligible to the "people," that they were not even surprised at the absurdity; the idea went in at one ear and out at the other. How many senators and representatives who accused the "great nullifier" of systematically

[1] "He [Gales] spoke of the multitudes of removals from public offices, the besom sweeping at the present time without remorse, and being for the first time avowedly founded not only upon the principle of dismissing political enemies and providing for friends, but for the further purpose of official rotation." Mem. of J. Q. Adams, XII., p. 190.

[2] "It is a great American principle. It lies at the foundation of our system." Deb. of Congr., XV., p. 515.

[3] * * * "He will be asserting one of the most untrue and monstrous propositions on the face of God's earth, who says that this is a 'popular doctrine.' What! 'a popular doctrine?' This a 'popular doctrine?' It is the very reverse. It is the doctrine to create a king, and to annihilate liberty. * * * No. The Democratic doctrine is precisely the reverse of what they affect to teach. It goes against patronage and influence." Calh.'s Works, IV., pp. 301, 302.

working to destroy the Union now stood far behind him, not only in statesmanlike insight, but also in patriotism, since they counted as nothing his repeated and emphatic warnings, that this system must be abjured, or the republic would break to pieces under the burden![1] For long years still, more and more bitter experiences had to be endured, before an earnest agitation for the change of the system could be even begun. The custom was now winning many new supporters even among those who were shocked by the sentence about the spoils. The principle of rotation in office seemed to them to be unquestionably Democratic, and what was Democratic could not but be just and good.

How strong this tendency to the radicalization of Democracy was, can best be seen by the many efforts, more or less successful, made in many states, to apply even to the judicial office the principles of pure Democracy.

During the first decade of the Union, judges were appointed in all the states except Connecticut, where they had been elected from the earliest colonial times. Jefferson first declared, in a letter of July 12, 1816, that the election of judges by the people was demanded by the Republican principle.[2] Half a generation, however, passed off

[1] * * * "If they did not put down the system, it would eventually put down the government." Deb. of Congr., XV., p. 514. "In this matter I have been uniform and sincere—whether right or wrong, time will disclose. But the evil has commenced. It is going on. It needs no prophet to forsee the end. I speak not in the language of prophecy; but who, judging from the past, can avoid the conviction that unless the proper remedy is applied, the overthrow of your political system is inevitable?" Calh.'s Works, IV., pp. 302, 303.

[2] "It has been thought that the people are not competent electors of judges learned in the law. But I do not know that this is true, and if doubtful, we should follow principle. In this, as in many other elections, they would be guided by reputation, which would not err oftener, perhaps, than the present mode of appointment. In one state

the stage before this view became a theme of public discussion.[1] Public opinion was sufficiently favorable to permit a discussion of it. Henry S. Foote discussed the question in a series of articles, which he published in 1832, in a Vicksburg paper, and signed "Thomas Jefferson."[2] Judge Bodely attacked the bold innovator vigorously, but in Mississippi, Foote's doctrines finally won a sweeping victory. It would be either doing him injustice, or giving him too much honor, to attribute to him a substantial part of the responsibility, for the fact that, in this regard, the nation began to forsake the old conservative paths and tend towards pure democracy. It had been so completely forgotten, if indeed it had ever been generally known outside of Mississippi, that Foote had played a leading part in bringing about this change, that his connection with it would, perhaps, have never again been thought of, had he not himself brought it to mind forty years later. If he had not given the impulse to it, some one else would soon have done so; for the spirit of the times led onward towards such

of the Union, at least, it has long been tried, and with the most satisfactory success. The judges of Connecticut have been chosen by the people every six months, for nearly two centuries, and I believe there has hardly ever been an instance of change; so powerful is the curb of incessant responsibility. If prejudice, however, derived from a monarchial institution, is still to prevail against the vital elective principle of our own, and if the existing example among ourselves of periodical election of judges by the people be still mistrusted, let us at least not adopt the evil, and reject the good, of the English precedent; let us retain amovability on the concurrence of the executive and legislative branches, and nomination by the executive alone." Jefferson's Works, VII., p. 12.

[1] I do not know when this letter of Jefferson became more widely known. He writes, September 5, 1816, to Kerchival: "But I must beseech you, sir, not to admit a possibility of its being published. Many good people will revolt from its doctrines, and my wish is to offend nobody." Ibid., VII., p. 35.

[2] H. S. Foote, Casket of Reminiscences, p. 347.

results with quickly increasing energy. Within the next decade we find the principle of the election of judges, and that, too, for limited terms, adopted in New York, Louisiana, Missouri, Texas, Illinois, Iowa, and Wisconsin,[1] yet not placed everywhere upon an equally radical basis, and not everywhere carried out with the same consistency.

This is not the place to enter upon a theoretical discussion of the question of the election of judges, or even to enquire closely whether and how far the system in the different states succeeded, which according to Jefferson, was so highly recommended by the experience of Connecticut. It suffices to state that the experiment yielded very different results in different places, and on this account men remained divided in opinion as to whether the old or the new system deserved the preference. In Iowa, for example, Grimes drew from the experience of the first eight years the conclusion that the judges of the Supreme Court should be, like those of the districts, elected by the people.[2] On the other hand, Foote later confessed that he had given most unhappy advice.[3] And in Mississippi, the change

[1] The Democratic Review, March, 1848, p. 202.

[2] "The experience of the past eight years has demonstrated that the power to elect judges is more wisely and satisfactorily exercised by the people than by the Legislative Assembly. The people have shown that they will not be dragooned into voting for incompetent and faithless partisan judges. Everybody admits that the character of the inferior tribunals of the State is superior to that of the supreme bench. If, therefore, it is important to elevate the character of the Supreme Court, as I believe it is, the judges of that court should be elected by the people, as are now the judges of the district courts. If learning, firmness, and impartiality, are superior, as qualifications for judges, to party fealty and partisan services, the selection of those important officers should be left with the people instead of being made the subject for corrupt legislative bargaining." To the people of Iowa, April 8, 1854. Salter, Life of James W. Grimes, p. 34.

[3] "I take no particular credit to myself for first suggesting this idea in Mississippi, and it would be, indeed, very ridiculous for me to

had, indeed, produced most injurious results. In that State party politics soon appeared in their ugliest and most destructive form, in the judicial elections. The "progressive Democracy" began to catechise the candidates for judgeships, and this not in regard to their general political belief, but upon sharply defined questions of *meum* and *tuum*. He who wished the support of McNutt's faction had first to show that upon the question of repudiation he rose to the height of the occasion, that is, that he was ready to betray the creditors of the State, and to sell the honor of the State for a mess of pottage.[1] And it was not even thought necessary to make any sort of attempt to conceal this. With the utmost shamelessness it was declared to be a public right to pledge judicial candidates before their election to decide questions which might be brought before their court in a certain way, because, according to the genuine Democratic principle, public opinion ought to be the law of the land.[2]

do so; for I hold that experience has plainly shown this change in the mode of election to have been a great and most deplorable error, since for many years past it has, as I think, been found altogether impossible to keep politics out of the judicial elections; and hence a great and constantly increasing deterioration of the judicial department of our system has been observable." Casket of Reminiscences, p. 348.

[1] "The presses of these ultra destructives, the McNutt faction of the 'Democratic Rule,' with the 'State Paper,' the *Mississippian*, at their head, are now making every effort to array, as a class, to control the elections of the judges, debtors whose own liabilities are to be decided upon by pledged judicial candidates." Nine Years of Democratic Rule in Mississippi, p. 256.

[2] The *Mississippian* writes, in the year 1845: "Touch not mine anointed. The editor of the *Southron* is horrified at the temerity we displayed in expressing our opinions as to a proposed Union Bank case. It is really laughable to witness such gross affectation. A mere man—poor, frail, weak, erring, man—is put upon the bench, named judge, and forthwith his possible opinions are held sacred. For our part, we hold all intelligences in equal respect; and we especially

If the idea that public opinion, or the will of the people, was to be the one unlimited authority, to which all public officers must submit unconditionally, no matter in what way or on what theme it expressed itself—if this idea was nowhere else expressed with equal absoluteness and effrontery, yet it was everywhere, more or less consciously, in greater or less degree, the deeper motive which lay at the root of the movement for the election of judges by the people. Public sentiment was so sound that the pledging of candidates for a judgeship to make certain decisions, was declared to be a proper policy only in rare and exceptional cases; and only in such cases was the introduction of politics into judicial elections, in whatever way this might happen, justified. It might, therefore, have been only fair to defer a judgment about the propriety or impropriety of the system, until a longer practical proof of it had furnished better material for a decision. And it was much less the thing itself, than its significance as a symptom of an important tendency in public opinion, which justly excited earnest apprehension. The conservative tone in the political sentiment and thought of the people, which, in republics much more than in monarchies, is an absolute

hold it to be the duty of an independent press to discuss the dogmas of the judges. The Federal judiciary is the anti-Republican feature of the government. So it is with the judiciary of most of the states. In Mississippi, where we have an elective judiciary, we stand some chance to make public opinion what it ought to be—the law of the land. Those opposed to the march of Democratic principles, cling to the judges, endeavoring to inspire great awe for their very opinion. This is absolute humbuggery. And here we take occasion to say, that it is supremely ridiculous to admit that the people are capable of choosing their judges, and, at the same time, deny them the utmost freedom in canvassing the opinions of candidates for judicial stations. Such statements may amaze our neighbor; but we tell him this is a part of the philosophy of that progressive Democracy which he so much dislikes." Ibid., pp. 255, 256.

condition precedent of the public weal, seemed seriously shaken. Although in some States, as for example, in Illinois,[1] loud complaints were made of serious evils, which had become prevalent in the tribunals under the system of appointment, yet in general the main motive for the change was not the conviction, that it was the best way to put an end to apparent or real evils. The motive was the wish to be true to the Democratic principle. To deny the people's capacity to put the right man on the bench, was to express a doubt, not so much unjustified as outrageous of the people's capacity for self-government. At the time men were inclined to overlook the fact that the capacity for self-government shows itself to a very essential degree in the moderate self-limitation by the people of their direct political activity, and a correct perception of the things which they can better accomplish by their delegates. The sovereignty of the people was to be manifested, as far as possible, directly and continuously, and not merely mediately and in the definite legal forms which were themselves the creation of the people.[2]

[1] "The system of making the assembled circuit judges the Supreme Court has been in operation in Illinois under its present constitution, and has (been) found to work badly, inasmuch as that it became a great political engine, a hot-bed, out of which all the political offices of the State was selected—a kind of oligarchy which divided up the high offices among themselves." The Democratic Review, March, 1847, p. 199.

[2] "There is a more specious argument for destroying the independence of the judiciary, which does not appear in the executive document now before us [the annual message of Governor Thomas, of Maryland—Dec. Session, 1842—which recommended the Legislature to abolish the appointment of judges 'during good behavior'] though it is frequently urged in newspaper paragraphs and electioneering harangues, because it is better calculated than any other to make an impression on the unthinking multitude. It is founded on the doctrine that, in this country, the will of the people is, and ought to be, supreme in every respect, and no institution should be allowed

Naturally, the radicals did not wish to carry out this thought to its final, logical results, much less to demand their practical accomplishment. But, nevertheless, it was a highly significant and very serious fact, that such masses of people had been won over to the attempt to carry out the partial realization of the idea in a matter which was the citadel of the conservative idea in the American political system. This was not an accident, for the innovators laid great stress upon the apparent contradiction between the prevailing organization of the judiciary and the character of the remaining parts of the constitutions of the different States. For this reason, too, the organization of the federal judiciary, which was unquestionably its most conservative and its strongest point, was often most violently attacked by the more radical of the new school. They did not attempt to agitate for a change in the principles of its organization, because the uselessness of such an attempt was too plain, but the wish of seeing it brought into harmony with the main political principle of the Republic was often expressed, even in Congress.[1]

to exist which is independent of their authority. It is urged that all our laws emanate from the people, and therefore should be referred for interpretation to the power which enacted them; and that a denial of this right and competency is a virtual impeachment of the Constitution and the Government under which we live. It is said, that the will of the people is usually made known only at stated times, and under certain forms—as at elections, and by ballot or hand-vote upon questions regularly proposed; but that these forms and seasons are adopted only for convenience, and the same power which required the observance of them may also dispense with it; so that the popular will, however promulgated, shall form for the time being, the supreme law, and the supreme exposition of the law." North American Review, Oct. 1843, p. 423.

[1] "I am, above all, opposed to this life estate of political power, because it puts the official out of the reach of popular revision. I do not care who the official is. I hope to see the judges of the United States elected every four years. It ought to be done." Allen, of Ohio. Deb. of Congr., XV., p. 516.

If the "progressive Democracy" had looked somewhat deeper, it would have been pleasantly surprised to find that even here the "republican" principle—using the word in its sense—had shown itself far mightier than it thought. Even in the United States Supreme Court, the Constitution had not created a rock upon which all waves and storms broke in vain. The truer comparison would be with a glacier—stiff and firm, and yet moving forward, and, as it slides down, always adapting itself to the bed on which it lies. Slowly and quietly the Supreme Court had changed with the times. Among the masses the change had been noticed little or not at all. This, however, only made it the more significant. Story was the last representative in it of the old times, and he had now resolved to make room for a successor. He believed that his remaining upon the bench could accomplish no more good for the Republic, because he alone remained faithful, upon the great constitutional questions, to the views which the court had formerly represented.[1] His younger friends and admirers might think that he looked through the dim glasses of old age—of an old age that constantly sought to

[1] He writes, April 12, 1845, to Ezekiel Bacon: "Although my personal position and intercourse with my brethren on the bench has always been pleasant, yet I have been long convinced that the doctrines and opinions of the 'old Court' were daily losing ground, and especially those on great constitutional questions. New men and new opinions have succeeded. The doctrines of the Constitution, so vital to the country, which in former times received the support of the whole Court, no longer maintain their ascendency. I am the last member now living, of the old court, and I cannot consent to remain where I can no longer hope to see those doctrines recognized and enforced. For the future I must be in a dead minority of the court, with the painful alternative of either expressing an open dissent from the opinions of the Court, or, by my silence, seeming to acquiesce in them. * * * I am persuaded that by remaining on the bench I could accomplish no good, either for myself or for my country." Life and Letters of Jos. Story, II., pp. 527, 528.

reconcile itself with the thought of the approach of eternal rest, the mournful complaint: "Times are changed, and things are changed, and men are changed."[1] Perhaps, however, the day was to come when it would suddenly become evident that the change was even greater than he himself had thought, or, indeed, even considered possible. When the saying that public opinion was the law of the land should have struck still deeper roots in public opinion—when the irrepressible conflict between freedom and slavery should have reached such a point that statesmen would be forced to step beyond the Constitution, and proclaim this phrase as the principle that was to be omnipotent in the country—when the final clash of contradictory principles should have been still further postponed—when demagogues should have become the "giants" of Congress, and should have gathered around this standard the lovers of peace, and that part of the masses who blindly followed the compact band of machine politicians—when, finally, the slavocracy should have become aware that even this did not suffice to ensure its mastery—then it would have to appear whether the last anchor of the Constitution still lay firm and fast, where Marshall and his comrades had deeply embedded it, or whether it had been torn loose by the storms of the slavery question, and swept forward by the currents of progressive democracy. In any event, it was in itself no trifling sign of the times that Story, who had been for more than a generation an ornament of the Supreme Court of the United States, now left it with the declaration that even in it the signs of the times were clearly apparent.

[1] Life and Letters of Jos. Story, II., p. 318.

CHAPTER VI.

The Double Game Against England and Mexico.—Against England the Strong, a Warlike Policy with the Sword in the Scabbard.

Polk's inaugural address had said nothing as to how he expected to enforce against England the "clear and unquestionable" right of the United States to Oregon. Since his statements were generally construed as identical with those of the Baltimore platform, it could not, however, have been expected that he would begin the affair by offering England a compromise. Yet it was not without object or meaning that the little word "all," which the national Democratic convention had placed before the word "Oregon," was not found in the inaugural address. Evidently the exultation of those who had maintained that Polk would under no circumstances yield to avaricious England the least bit of the debatable land, was too hasty and too loud. Nevertheless, a settlement through a fair compromise was more improbable now than before. The "blustering announcement" of the President was only a new proof of his acquiescence in the belief that speech was given to conceal thought; the authentic interpretation of the words about "clear and unquestionable" right, had to be gathered from the further history of the struggle.

July 12, 1845, England was officially informed by a letter from Buchanan to Packenham that, in the opinion of the President, the United States had an exclusive right to the whole of the land in dispute. The passage in the

inaugural address had therefore been rightly interpreted. Polk had not uttered a syllable in it, however, to show that he felt himself, as the Secretary of State now declared, embarrassed, if not committed to a certain policy, by the acts of his predecessors. This alone, he now let it be known, determined him to make a last attempt to bring about a good understanding[1] by offering the line of 49° as a boundary.

Polk himself could not possibly have considered this offer as made in earnest. It was intelligible only if all he aimed at by it was with good grace to discharge the unpleasant duty which respect for his predecessors imposed upon him. How could England agree to accept the line of 49° without the right of free navigation of the Columbia, when she had refused as insufficient an offer of the same line with this right? Packenham declined the proposition, and asked for a new one. Instead of this he received from Buchanan, August 30, the announcement that the President now felt himself free to follow his own views as to the title of the United States, and that he therefore withdrew the proposition of July 12.[2] Coupled with this,

[1] "Our own American title to the extent of the valley of the Columbia * * * is a sufficient assurance against all mankind, whilst our superadded title derived from Spain extends our exclusive rights over the whole territory in dispute as against Great Britain.

"Such being the opinion of the President in regard to the title of the United States, he would not have consented to yield any portion of the Oregon territory had he not found himself embarrassed, if not committed by the acts of his predecessors. They had uniformly proceeded upon the principle of compromise in all their negotiations. * * * In view of these facts, the President has determined to pursue the present negotiation, to its conclusion, upon the principle of compromise in which it commenced, and to make one more effort to adjust this long pending controversy." Sen. Doc., 29th Congr., 1st Sess., Vol. I., No. 1, p. 169.

[2] Ibid., p. 192.

however, was an expression of a hope that despite this "necessary step" the question at issue would be decided without a rupture of the friendly relations between the two powers. As Packenham made no new propositions on behalf of England, the matter remained in this condition until the meeting of Congress.

The annual message of December 2, 1845, recounted the story of these fruitless negotiations, sharply asserting that they had been carried on only out of respect for the policy previously pursued, and that now, in accordance with the unquestionable right of the United States, "all Oregon" would be claimed. Nothing was said, however, of the hope that, despite this, friendly relations with England would continue undisturbed. Instead of this, Polk expressed his conviction that no suitable compromise could be made, but threw upon England alone the responsibility for this.[1] He argued from the miscarriage of all attempts at a settlement, that it was the duty of Congress to take suitable measures for the protection of American citizens in Oregon, and for the maintenance of the national title to that country.

In the President's opinion, therefore, the condition of the question had substantially changed. Congress possibly concurred in these views, but there certainly was no necessity for this. Since, hitherto, negotiations had always been renewed, despite all the fruitless attempts, this might very well happen again. Congress was not bound to look upon the proposition of July 12, at once, as

[1] England's unfair demands, and her rejection of the proposition of July 12th, "afford satisfactory evidence that no compromise which the United States ought to accept can be effected. * * * The civilized world will see in these proceedings a spirit of liberal concession on the part of the United States, and this government will be relieved from all responsibility which may follow the failure to settle the controversy." Statesman's Man,. III., p. 1563.

the last offer. It could not compel the President to make a new one, but it could readily allow matters to remain in *statu quo* until either England made other suggestions, or a future president applied himself to the difficult problem. Congressional action was necessary only after notice of the termination of the convention of 1818–1827. Polk also recommended that this should be done "by law," and moreover expressed the wish that the jurisdiction of the United States should be, after the precedent set by England in 1821, "immediately extended over our citizens in Oregon." Not only national interests but national honor, he declared, forbade the thought of giving up the right to hold Oregon.[1]

The answer of the market to these expressions in the message was a sudden, swift, fall in the political barometer. This was not due to the machinations of speculators, for the matter did not stop at a general depreciation of values on 'Change: the burden of the depression fell upon all kinds of industrial pursuits which were immediately connected with international affairs.[2] And the especial friends of the administration in both houses of Congress took care to increase the intense disquiet and anxiety by emphatic declarations that these fears were not vain.

December 9, Cass moved, in the Senate, that the Committees on the Army and on the Navy should be instructed to inform themselves of the defensive strength of the country and to consider whether the national safety required

[1] Ibid., p. 1565.

[2] "Such, also, would seem to be the view taken by the community at large at the time, if we may judge from the tone of the public press, or what, perhaps, is a still truer index, the conduct of our intelligent business men. The message had the most decided effect in this respect. Stocks of every description fell, marine insurances rose, commercial pursuits were suspended, and our vessels remained inactive at the wharves." Calhoun's Works, IV., 261.

any action. It was significant in itself that such a suggestion should be made at this time from such a quarter, for Cass had demanded, years before, with passionate emphasis, that England's shameless claims should be rejected at any risk and had expressed his belief that the contest about Oregon would in all probability lead to a war.[1] The resolutions, it is true, did not mention either Oregon or England, and said not a word of the reasons for the motion. But the speech in which Cass supported them, December 15, showed, not only that they had been rightly thought to refer to the Oregon question, but also that the views of the Senator upon it had become much more extreme in the course of years. He began with the remark that the relations between the United States and England were rapidly coming to a crisis. An understanding about Oregon could be reached in only two ways—arbitration or voluntary compromise. The President's refusal to submit to arbitration would have to be approved, for it was too doubtful whether the Republic could expect a fair judgment from a European monarch. Nothing was to be hoped in

[1] In a Fourth of July oration, in 1843, he said: "Our claim to the country west of the Rocky Mountains is as undeniable as our right to Bunker Hill or to New Orleans; and who will call in question our right to these blood-stained fields? And I trust it will be maintained with a vigor and promptitude equal to its justice. War is a great evil but not so great as national dishonor. Little is gained by yielding to insolent and unjust pretentions. It is better to defend the first inch of territory than the last. Far better, in dealing with England, to resist aggression, whether of territory, of impressment, or of search, when first attempted, than to yield in the hope that forbearance will be met in a just spirit, and will lead to an amicable compromise. Let us have no red lines upon the map of Oregon. Let us hold on to the integrity of our just claim. And if war comes, be it so. I do not myself believe it will be long avoided, unless prevented by intestine difficulties in the British empire. And woe be to us if we flatter ourselves it can be arrested by any system of concession; of all delusions, this would be the most fatal; and we should awake from it a dishonored, if not a ruined people." Niles' Reg., LXIV., p. 345.

the way of a voluntary compromise, for the negotiations had been as good as broken off and the claims of the two powers were "utterly irreconcilable."[1] Only three things were possible—to draw back, to stand still, or to go forward. The first was not to be discussed; every thought of it was to he branded, for not only was every consideration of consequences forbidden in a matter of national honor, but it would be merely sowing the wind in order to reap the whirlwind if the thought of buying peace by cowardice were entertained for a moment. Standing still was as impossible, for both the duty and the destiny of the American people were always and in every respect to struggle ahead and press forward. The country had, therefore, to go forward now, and since England had put herself in the way, she would have to be met, unless she on her side yielded. If her last proposition was to be taken as her ultimatum, it was virtually a declaration of war.[2] It could not be doubted that the convention of 1818–1827 would be terminated and twelve months after that the country would find itself at war with England. If war were almost upon it, however, its defensive strength was insufficient. Care should be taken that it did not rush unprepared into another great war, as it had done in 1812.[3]

[1] "Her pretensions and ours are so widely separated, that there seems no middle ground on which to meet." Congr. Globe, 29th Congr., 1st Sess., p. 45.

[2] "If the last proposition she has submitted is her ultimatum, it is effectively a declaration of war. Its advent may be delayed a few months: but as soon as the notice expires, if she persists, as she will do, in her occupation of the country, the struggle must commence. It is not the notice which is a belligerent measure, for that is a treaty right; but it is the subsequent and immediate course the parties will probably pursue that must lead to war."

[3] "One war has already found us unprepared * * * when war threatens, we should commence our preparations, and press them with an energy and a promptitude commensurate with the danger." Ibid., p. 47.

If Cass's beliefs were in full accord with his acts, he must have considered the least delay as dangerous, for the committees mentioned in his motion did not as yet exist. The resolutions in themselves were not objectionable. The only serious thing was what could be read between the lines. On their face, they were simply a request to certain committees to discharge their legitimate and regular tasks. When they were voted upon, there was not a single dissenting voice. Before the vote, however, a lively regret had been expressed in different quarters because Cass had made his motion at all, and still more because he had supported it by a speech, which would be considered as a storm signal on both sides of the Atlantic, and could not, indeed, be considered as anything else. Mangum thought that an unworthy game lay hid behind this foaming patriotism[1] and Crittenden declared that Cass, by his speech, had, so far as in him lay, made the resolutions a declaration of war.[2] Yet, at first, it seemed as though Polk might reasonably expect to see his policy approved and strongly supported by the majority of both Houses. December 18, Allen, the chairman of the Senate Committee of Foreign Affairs, moved a joint resolution, advising the President to terminate "forthwith" the convention of 1818–1827.[3] In the House, the Committee of Foreign Affairs reported a resolution, January 5, 1846, which went a long way further, inasmuch as it did not advise, but peremptorily ordered, the President to terminate the convention at once.[4]

[1] "He saw clearly that a game was being played here which he considered unworthy of the American character." Ibid., p. 49.

[2] Ibid., p. 55.

[3] Deb. of Congr., XV., p. 296.

[4] "*Resolved*, * * * That the President of the United States forthwith cause notice to be given to the Government of Great Britain, etc." Ibid., p. 308.

It must be supposed that Polk was most contented with those politicians who spoke in the boldest tones, for Cass confessed, some months later, that he had introduced his resolutions in accordance with a previous understanding with the administration, and that even their wording was partly the work of Buchanan.[1] And undoubtedly Cass's explanation of them, in his first speech, was in thorough accord with the President's views, for when Packenham again suggested, December 27, a reference to arbitrators of "the whole question," as to the proper division of the territory, Buchanan declined the offer, January 3, with a reference to his letter of August 30, because such a course would be an admission that England had a title to part of Oregon.[2] Packenham thrust aside this difficulty, for he proposed, January 16, that the arbitrators should first decide whether one of the powers had an exclusive right to all Oregon, but, in case this were decided in the negative, they should then award to each the part belonging to it. Yet this proposition was also declared unacceptable by Buchanan, because arbitrators always wished to satisfy both parties as far as possible, and the President, apart from all this, did not think it proper to submit the territorial rights of the United States to arbitration.[3] Although the Sec-

[1] Deb. of Congr., XV., pp. 473, 474.

[2] Sen. Doc., 29th Congr., 1st Sess., Vol. IV., No. 117, pp. 4, 6.

[3] "If the Government of the United States should consent to an arbitration upon such a condition, this might, and probably would, be construed into an intimation, if not a direct invitation, to the arbitrator to divide the territory between the parties. Were it possible for the President, under any circumstances, to consent to refer the subject to arbitration, the title, and the title alone, detached from every other consideration, is the only question which could be submitted. If not confined to a single point, so strong is the natural disposition of arbitrators to please both parties, that in almost every instance, whether of national or individual controversies, they make a compromising award. * * * The undersigned will, however, proceed to state a single reason which,

retary of State still, as ever, expressed the wish that the difficulty might be settled in a friendly way, the President was wholly in accord with the main idea of Cass's speech—that the claims of the two powers were "utterly irreconcilable." In such case, however, as Wescott, of Florida, pointed out, war was inevitable,[1] provided the President kept his word and "never" abandoned his present position.[2]

This "never," however, had attached to it the significant clause, "unless the Senate should otherwise determine."[3] There was thus still *one* possibility of a compromise; if the Senate would take the responsibility of it, the President would follow its lead. How different in tone this was from Jackson's haughty saying to his cabinet, during the struggle over the deposits: "I have taken the responsibility." Polk had shown, in the Mexican controversy, that he was quite as ready as Jackson to assume responsibility in matters of gravest import, when it was at least very doubtful whether he had the right to do so. Why, then, did he wish in this case to transfer the burden to other

apart from the intrinsic difficulty of selecting a suitable arbitrator * * * is conclusive on the mind of the President against a reference of this question to arbitration, in any form which can be devised. * * * This reason is, that he does not believe the territorial rights of this nation to be a proper subject for arbitration." This entire correspondence is also printed, Deb. of Congr., XV., pp. 363–366.

[1] Deb. of Congr., XV., p. 367.

[2] Buchanan writes, Jan. 29, 1846, to the ambassador, McLane, at London: "The President will never abandon the position he has taken in his message. Clearly convinced of the right of the United States to the whole territory in dispute, and relieved, by the refusal of the British Government to accept his offer of compromise, from the embarassment in which the acts of his predecessors had placed him, he would not now authorize the conclusion of a treaty on that basis." Sen. Doc., 29th Congr., 1st Sess., Vol., IX., No. 489, p. 39.

[3] "The President will accept nothing less than the whole territory, unless the Senate should otherwise determine."

shoulders, when it was perfectly certain that the Constitution placed it primarily upon him? The Constitution (Art. II., Sec. 2, § 2), says that the President "shall have power, by and with the advice and consent of the Senate, to make treaties." Certainly, he was as little forbidden to subordinate his own views to the judgment of the Senate as he was prohibited from asking the advice of the Senate before or during the negotiations about a treaty. But just as certain is it that the normal distribution of power, under a proper construction of the Constitution, gave the President the right and the duty of taking the initiative, while the Senate was not to decide for him, but was to advise him, and to exercise a partial veto right. Perhaps the subsequent history of the Oregon question shows whether Polk was impelled only by pure and patriotic motives to declare himself ready in advance, in this case, under certain circumstances to reverse this distribution of power.

Moreover, this noteworthy clause deserves attention from another point of view. It declares in the most conclusive and precise way that the Oregon question belongs to the domain of the treaty-power. This was unquestionably true, not only in regard to a final settlement of the claims of either side, but also in the same measure and for the same reasons in regard to the final termination of the convention of 1818–1827. The convention was a treaty and could be destroyed by the power which had created it. But the President's annual message had recommended a termination of the convention "by law." A minority of the House Committee on Foreign Affairs considered it inadmissible to comply with this recommendation, because the House had no part in the treaty power and was therefore absolutely without power to act.[1] This was a shot

[1] "It is not denied that the House might, in the form of resolutions, express its opinion upon the subject of this notice; * * * but these

over the mark. The Constitution says not a word about the repeal of treaties, but the right of the law-making power to repeal a treaty can scarcely be considered as an open question, since it has been exercised,[1] and it cannot be doubted that the Supreme Court would recognize its constitutionality if a case involving it came before that tribunal.[2] From the standpoint of constitutional law, no objection could be made to Polk's recommendation. And if he had the choice of terminating the convention by treaty or by law, it certainly in itself merits our approval that when he was handling a matter that might involve

resolutions would be merely abstract opinions, of no practical operation, and having no authority but their moral weight. The House, by its resolution, might declare that it was expedient or inexpedient to give this notice; and if in the one form or the other, the President might or might not give heed to it. But it has no power to originate, or to concur in a legislative proceeding, whether in the form of joint resolution or bill to authorize this notice to be given. It can neither give nor withhold power to that end." The entire report is printed, Deb. of Congr., XV., pp. 308, 309.

[1] "An act to declare the treaties heretofore concluded with France, no longer obligatory on the United States." July 7, 1798. Stat. at L., I., p. 578.

[2] Judge Iredell says, in explaining his opinion in the case of Ware v. Hilton (1796): "But our judgment must be grounded on the solemn declaration of Congress alone (to whom, I conceive, the authority is entrusted), given for the very purpose of vacating the treaty on the principles I have stated." Dallas' Rep., III., p. 260; Curtis, I., pp. 204, 205. Story does not allow that the question admits of discussion: "for it will not be disputed that they [treaties] are subject to the legislative power, and may be repealed, like other laws, at its pleasure." Comm., II., p. 581, § 1838. Later (1870) the Supreme Court decided: "An act of Congress may supersede a prior treaty." The Cherokee Tobacco, Wallace's Rep., XI., p. 621. This covers this case since it goes beyond it. The Court adds: "In the cases referred to [Taylor v. Morton, 2 Curtis, 454; The Clinton Bridge, 1 Woolworth, 155] these principles were applied to treaties with foreign nations." The judical decisions, which I have not read myself in full, but only know from other books, I cite in the American way.

peace or war, he preferred to act in harmony with both Houses of Congress.

The experience gained by the annexation of Texas suggested the consideration of the matter from still another point of view. Buchanan had before this expressly recognized the fact that the treaty power was competent to terminate the convention,[1] and it seems incredible that Polk could doubt its competence. But nevertheless the President and his Secretary of State had had no choice. Without their choice, they were treading the only path which could lead them to the wished for goal. If the treaty had to be repealed by the power which had created it, a two-thirds majority in the Senate was needed, and this was impossible in the present condition of affairs. If the termination of the convention were not considered sufficient provocation in itself, it could certainly be interpreted only as the expression of a wish to force matters to a crisis; for the President, as well as Cass, not only thought all further efforts for a final valid compromise utterly useless, but also did not offer the least basis for the creation of a new *modus vivendi*. But there were many men who thought with Webster that it would be simply unpardonable to make war on England on account of this question.[2] If a little time could be had for sober consideration, the great majority of the people would certainly

[1] "This treaty had existed for a quarter of a century. It could only have been ratified by a majority of two-thirds of the Senate; and it could hardly be expected that the President of the United States, upon his own authority, would abrogate and annul this treaty, without the advice and consent of that body." Deb. of Congr., XV., p. 78.

[2] Webster said, in a speech delivered in Faneuil Hall, Nov. 7, 1845: "The man who shall incautiously, or led on by false ambition or party pride, kindle those fires of war over the globe on this question, must look out for it—must expect himself to be consumed in a burning conflagration of general reproach." Curtis, Life of Daniel Webster, II., p. 258.

come to this opinion.[1] Everything, therefore, depended upon whether the shriekers for war could carry through at the first onset a resolution terminating the convention. This was unquestionably much more to be feared in the House than in the Senate, partly because passion as well as demagogism found a far better field for operations there, and partly because there an unconscionable majority could easily cut off debate under the "rules." But a quick and complete victory of the radicals in the House would probably exert a heavy pressure upon the Senate, because it would then be impossible to tell to what degree of foolish excitement the masses would be moved by the red rag of envious dislike of England.

There was still another danger. If the House of Representatives succeeded in playing the leading rôle in terminating the convention of 1818–1827, it was by no means impossible, and perhaps not even improbable, that it would urge to a certain extent a claim, the carrying out of which would reduce to a minimum the chances of a peaceful settlement. Ingersoll had already, in March, 1844, announced his opinion that the Oregon question could not be settled without the coöperation of the House, because it involved the disposition of territory belonging to the Union.[2] He rested his argument upon a speech

[1] Rives wrote to Crittenden, March 9, 1846: "Foreseeing that our friends in the Senate from their high official position, would naturally feel themselves restrained in the expression of any unfavorable judgment on our boasted title to the whole of Oregon, I thought I would venture to say a word or two to suggest for consideration some doubts respecting the infallibility of our friend Buchanan's dialectics upon the old Spanish title. This question of right, by-the-by, though a very delicate one to discuss, lies at the bottom of the whole subject with the people. If they can believe our right clear, they will maintain it (at) all hazards." Coleman, Life of Crittenden, I., pp. 236, 237. This remark, in my view, hits the nail on the head.

[2] Niles' Reg., LXVI., p. 62.

of Henry Clay on the Florida treaty, delivered April 3, 1820. Clay had maintained that the exclusive competency of the treaty power to enter into boundary arrangements was limited to fixing doubtful boundaries, that is, to determine by treaty where a disputed boundary *was;* but when, on the other hand, it was necessary to determine where a boundary ought to be; or, when both questions were united in one treaty, then the treaty power had to ask the consent of Congress; for the constitution gave Congress the power of disposing of the territory of the United States, and therefore no treaty which "alienated" the territory of the Union could be binding without the approval of Congress.[1] In 1795, and again in 1816, the limits of the treaty power had been the subject of exhaustive debates, but it had then never been claimed that treaties settling the boundaries of lands not actually in the possession of the United States needed the sanction of the House.[2] For such cases, Clay's reasoning was evidently too subtle. It made a distinction without a difference. Moreover, not only had this disputed right of action been repeatedly exercised by the treaty power, but the constitution said nothing about any right on the part of the House, under any circumstances whatever, to coöperate in the conclusion of treaties, much less about the manner in which this right was to be exercised. It might be questionable how far the treaty power extended; but it is not easy to understand how it could be questioned that the treaty power—however broadly or however narrowly its limits might be drawn—had been confined by the constitution exclusively to the President, with the coöperation of the Senate. Thus Anderson, of Kentucky, declared that

[1] Speeches of Henry Clay, I., App. pp. VI., XI.
[2] Deb. of Congr., VI., p. 583.

the result of the claim advanced by Clay would be that territorial disputes could never be settled peacefully, but the United States would always have to wage war until it had secured for itself the last inch of the disputed land.[1] However absurd and atrocious this result might seem to Anderson, it was now fought for in bitter earnest. In the House, Douglas introduced a resolution December 19, which declared that every compromise was improper.[2] Ten days later Hannegan offered in the Senate resolutions which roundly denied the power of the Federal Government to transfer the territory of the Union to a foreign nation.[3] The radicals considered a termination of the convention of 1818–1827 identical with a peremptory notice to England to quit the territory. And if they did not, as Hannegan wished, straightway burn their ships behind them; yet the House could certainly throw this old argument of Clay as an almost insurmountable obstacle in the way of a compromise, if the termination of the convention were once accomplished in this spirit.

Whatever opinion as to the desirability or possibility of a continuance of the present relations of the two powers in regard to Oregon might be entertained by the friends of a peaceful settlement, they were bound to meet

[1] Ibid., VI., p. 597.

[2] "*Resolved*, That the title to any part of the Oregon Territory south of 54° 40′ of north latitude is not open to compromise so as to surrender any part of said territory." Congr. Globe., 29th Congr., 1st Sess., p. 86.

[3] "*Resolved*, That the country included within the parallels of 42° and 54° 40′ north latitude, and extending from the Rocky Mountains to the Pacific Ocean, known as the Territory of Oregon, is the property and part and parcel of the territories of the United States.

"*Resolved*, That there exists no power in this Government to transfer its soil and the allegiance of its citizens to the dominion, authority, control, and subjection of any foreign power, prince, state, or sovereignty." Ibid., p. 109.

the radicals upon the threshold—that is, they had to try to prevent a termination of the convention, as long as such a termination could be considered as decided upon in accordance with the views expressed by the radicals and in the President's message. The friends of peace, therefore, breathed freely when Calhoun most decidedly opposed the termination of the convention, for it was thought to depend upon him to which side the balance in the Senate would incline. He at once met Hannegan's resolutions with a series of others, in which he opposed the radicals at every point, yet did not outline any positive programme of his own. There were contradictory claims to the territory; they had repeatedly been the subject of negotiations; the competency of the treaty power to settle them could not be questioned,—this, in a word, was the substance of his resolutions.[1] In the short introductory debate caused by the introduction of the two sets of resolutions, he took part only by making a few general remarks. These showed, however, that his resolutions contained his whole programme, although they were only a protestation against Hannegan's proposition. His programme was a conscious and deliberate absence of programme. In other words, he was steadfast in the position which he had assumed and defended in 1843. If matters were pushed to a crisis now, "every inch" of the territory would be lost at first, and then the fight for it would have to be renewed; but if time were left to solve the problem, Oregon would have of herself fallen to the share of the United States, for nature had made her part of it, and it incessantly tended in its development to press forward toward the west.

Calhoun could the more easily content himself with

[1] Deb. of Congr., XV., p. 301.

this short reference to his speech of Jan. 24, 1843, not only because everything which he had then said in support of the first part of this theory still held good, and was simply unanswerable, but because the United States was still so utterly unprepared for a war with such a power as England, that, however earnestly Cass's warning might be taken to heart, it was impossible to be halfway prepared for a fight if matters developed as quickly as the radicals wished.[1] But if his old argument was far more than sufficient to convince every calmly reflecting patriot that everything tending to bring the question before the forum of the gods of war should be avoided, there was also no doubt that he kept silent about other reasons, which seemed to him far more weighty, and which made him consider a war with England for the sake of Oregon as criminal madness.

. It was to be expected after the declaration of the Baltimore convention that the Democrats would treat the Oregon question as a strictly party issue, in which individual politicians would have to subordinate their private views to the party's decree. But if the struggle, even at the last, was not entirely freed from the character of a party question, it was still more noteworthy and significant that the most determined leaders of the opposing views formed

[1] Niles' Reg., LXIX., p. 354, quotes an interesting article from the New York *Journal of Commerce* on this point. There was only one frigate ready for use, and a second could be made ready with three months' repairs. It took two years to build such a vessel, and there were only five ship-yards where the work could be done. The importation of saltpetre was a matter of great difficulty, and there was only six months' supply on hand. There was only one cannon foundry in the country. Powder was manufactured only in private mills, and little was known as to the goodness of their products. "We might go on through the whole catalogue, and show our deficiencies in each particular, but we forbear."

sharply defined geographical groups. The northwest was practically unanimous in demanding, with stormy unrest, that the country should hold fast to the Baltimore platform at any risk, and should finally abjure the policy of weakly postponing a decision. It might well be admitted that the thirst for aggrandizement, which has ever had its chief hold in the west, was not without influence here. But the seriousness of the matter was too thoroughly appreciated to admit of a mere policy of sentiment. Moreover, a war with England certainly seemed much less of a danger and an evil to the west than it did to other parts of the country. Its geographical position prevented it from being directly exposed to the miseries of war, and there was no lack of persons who expected to see their leading business interests rather aided than injured by such a war.[1] Unquestionably, however, the patriotism of the west would be reckoned too low, and its reckless selfishness too high, if its position were to be attributed wholly to such motives. It was in fact the champion of a great national interest, which had engrossed the efforts of statesmen and patriots like Adams for many years. Assuring the safe possession of Oregon was in a certain sense not an end in itself, but only a means to the end sought. The domination of the northern half of the Pacific Ocean, and the most favorable position in relation to the trade with China and Japan, were the points in issue. Douglas, indeed, openly declared that the nation could not

[1] "The principal war feeling comes from the northwest. Those new states, full of enterprise, and fast becoming full of people, and being so circumstanced as to have nothing which would be put to hazard by war, seem to look upon war as a pleasant excitement or recreation. They have no cotton crops and no ships, while war would create much employment among them, raise the price (as they think) of their provisions, and scatter money." Mr. Webster to Mr. Sears, Wash., Jan. 17, 1846. Webster's Priv. Corresp., II., p. 215.

content itself even with all Oregon, and could not rest before England was entirely excluded from the western coast of America, upon which she had seized without a shadow of title.[1] So far as this was concerned, the west was most interested, quite apart from the direct and indirect advantages of an active transit commerce, in so far as it might run the risk of being suffocated with its own wealth of grain, in case the southern and eastern markets should no longer suffice for it, and it should not have taken care beforehand to open up for itself new sources of demand in the far west. But, in the first place, everything which so greatly interested such a large part of the Union was a matter of national interest. Moreover, the capital, trade, and industry of the East would evidently gain quickly, directly, and greatly, if America became, commercially, what she was geographically—the connecting link between eastern Asia and western Europe—and if the United States practically more or less monopolized the place of the middleman between the two.

The south, almost as firmly determined, opposed the northwest. There came from it, indeed, a few speeches in a very high key, but this was unquestionably stage

[1] * * * "The great point at issue, the great struggle between us and Great Britain is, for the freedom of the Pacific Ocean, for the trade of China and of Japan, of the East Indies, and for the maritime ascendancy on all these waters. That is the great point at issue between the two countries, and the settlement of this Oregon question involves all these interests. And in order to maintain these interests, and secure all the benefit resulting from them, we must not only go to 54° 40′, but we have got to exclude Great Britain from the coast *in toto*. * * * Give up to this power, which holds this control over all the balance of the globe, this Oregon Territory, the key to the Pacific, with its harbors, its islands, and its bays, and she is in a position to hold in check all the navies of the world, and that, too, while we will have the opportunity to reap all these advantages." Deb. of Congr., XV., pp. 353, 355.

thunder.[1] Only a few voices here and there were heard declaring themselves opposed to any compromise, and even these could not but convey the impression that they would speak far less boldly if they expected to be taken at their word. On the other hand, however, very few southerners at first openly advocated a compromise. The mass of their speakers asserted their fidelity to the Baltimore platform, and declared that Calhoun's policy of "masterly inactivity" was the only way to carry into effect the just claims of the United States. This was equivalent to saying that the south did not wish to go to war for the sake of Oregon; and in so far these speeches came much nearer the truth than those empty declamations which had been designed to tickle as well as deceive. Yet they produced an impression of insincerity, and they did so precisely because they indirectly and unwillingly confessed the truth. The speeches of the southern leaders are clothed in the most varied colors; but there runs through every one of them an annoying coolness, made more perceptible by the studied passion. No heed is paid as to how the different speakers vary their treatment of the theme, because it is felt, from the coolness common to all

[1] Thus, for example, Howell Cobb said: "Sir, upon this day, this memorable glorious 8th of January, let it not be said by American statesmen, in an American Congress, that this Government can be injured, can be deprived, can be weakened, in her just and unquestionable rights by a conflict with Great Britain, or with any other government. If war come, I venture the prediction that when it terminates we will have the consolation of knowing that not a British flag floats on an American breeze; that not a British subject treads on American soil." Ibid., p. 327. In the letter already cited, Webster writes: "The South will be nearly united against notice, though too many southern members make violent speeches for home consumption." See, also, Congr. Globe, 29th Congr., 1st Sess., p. 540, with regard to resolutions of the Legislature of Mississippi, one of the neatest examples of the way in which the South, with the most serious face, said "yes" and "no" in one breath.

these orations, that the south wishes the matter considered and decided, not upon national grounds, but from its own special sectional standpoint. But these special southern interests showed the south its way so clearly that it could not be mistaken, even by those who joined the northwest in blowing the trumpet of war.

Giddings, who had so little in common with the advocates of western interests, was at one with them in this struggle, because, as he declared, the south had forced this policy upon the north. "It is the annexation of Texas," he said, "that has rendered the *whole* of Oregon necessary to restore that balance of power. By the annexation of Texas, the slave states now have a majority in the Senate. They will contrive to retain that majority unless we add territory to our northwestern border. By the annexation of Texas, the protection of the free labor of the north has been surrendered to the control of the slave power; our constitutional rights and the honor of our free states are delivered over to the keeping of slaveholders."[1] The south might think it a foolish dream when Giddings went on to say that a war would place in the possession of the Union all the other English territory in North America, and would, therefore, give the north a great superiority.[2] But certainly the thought was not pleasant to it, that it should help the north to an equivalent for the advantage which it had gained for itself after such a long struggle and by such great efforts. Even Webster said it was impossible to expect the favorable vote of a single southerner if the north

[1] Giddings' Speeches, p. 151.

[2] But another consequence would, in all human probability, result from a war with England. We should obtain the Canadas, Nova Scotia, and New Brunswick, adding at least six new states to the northern portion of the Union, each possessing double the population of Texas. Ibid., p. 161.

should be offered an opportunity to increase its territory.[1] As far as the title of the United States to Oregon was really unquestionably better than that of England, the south could be relied upon, for the honor of the country was no less dear to the south, at heart, than to the north. But it was scarcely doing the south an injustice to believe, despite her assurances, that she would prefer to see everything beyond this limit fall into the hands of England. This was, perhaps, in part not avowed by the south even to itself, but that section was clear in its views to the extent of refusing to make an effort or a sacrifice for the sake of the territory to which the national title was not unquestionable, in order to increase the weight of the north in the scale. A policy which might result in a war with England would therefore, necessarily be opposed by it, for however great glory and gain such a war might bring to the Union, it should necessarily, under the most favorable circumstances, greatly damage the special interests of the south. Even if pompous speeches could have alone sufficed to wipe out English rule upon the American continent, yet the most fanciful and sanguine, and the boldest demagogue could not deny that England had a terrible superiority at sea. A war with her was, therefore, the heaviest blow that could be dealt the planter states, which lived off their exports.[2] Before the first cannon shot had been fired, the

[1] Webst.'s Works, V., pp. 57, 58.

[2] The *Charleston Mercury* writes, Nov. 4, 1845: "The interruption of peace with England and the destruction of intercourse with all the world, which would be the consequence, is something more than a question for braggarts and fools to spout about. We do not believe that southern statesmen are quite prepared to sacrifice the whole resources of their section on such an issue; that they are ready to maintain, at a cost of two million bales of cotton per annum, that we have a 'clear and unquestionable title' to every foot of ground in a territory which we have consented to occupy in common with the other claimant for twenty years, and the ownership of which has been in dispute ever since the country was discovered."

certainty of war would make itself felt at the very roots of their industrial life. The more uncertain it was whether the products of slave-labor could be disposed of, the more would the value of the slaves have to fall. Not only, therefore, would the slave holders suffer a loss of income, because the labor of their living capital was more or less unproductive, but this capital itself would lose in value. The loss would probably be only temporary, but yet would be hard to bear in countless cases, because slaves in such great measure took the place of cash capital. The candle would be lit at both ends and the two flames would intensify each other. If the war lasted several years and England maintained her superiority on the sea, the slaves would perhaps finally be transformed from unproductive capital into consumers of capital, while the demands of the war would press the tax screw ever more firmly into the south, which was always moneyless, no less than into the north and west. And even this was far from being the worst of the things which the south might very probably have to suffer. If Canada were England's most vulnerable point, in case of a war between the two powers, the south was the Achilles-heel of the Union. What if England made good the threat which some of her statesmen had occasionally let fall, appealed to this living capital of the south as men and called them to fight for the full recognition of their manhood? The fact that, in the two previous wars, so little aid had been got from the slaves, does not prove much. At those times, slavery still existed in England's West Indian Islands; now, on the contrary, England could throw into the slave states colored troops from those islands, and that these troops might succeed in inciting an insurrection of the slaves, could not be thought quite impossible, at least by those slave states which considered it necessary to throw into prison the colored sailor or cook of a ship which en-

tered their harbors. The future was to show, that the south was justified in expecting miracles from the fidelity of its slaves, and it might, therefore, even now consider a servile insurrection as in the highest degree improbable; but the possibility could not be reasoned away, and the thought of the bare possibility was enough to send a cold shudder through the limbs of strong men.[1] There was ground, therefore, neither for astonishment nor for blame, that the affrighted south threw itself into the arms of the President, who, though he belonged to the south, and was certainly inclined to protect the interests of the slavocracy to the best of his ability, seemed to be utterly blind to the dangers he was conjuring up against the south.[2]

Giddings was right in saying that the West was only following in the footsteps of the South, and that the latter might thank itself alone for all the ills which would result to it from a war with England. But he exaggerated wildly when he added, that they would now force the south to drain the poisoned chalice to the dregs, and that hundreds of thousands would laugh at its calamity.[3] No

[1] "Servile insurrections torment their (our southern friends) imaginations; rapine, blood, and murder, dance before their affrighted visions. They are now seen in every part of the hall, calling on Whigs and Democrats to save them from the dreadful consequences of their own policy." Giddings' Speeches, p. 159. Compare Mem. of J. Q. Adams, XII., p. 238.

[2] Seward writes, Jan. 23, 1846: "The south is panic-struck concerning war with England; and boldness is regarded as madness and guilt." F. W. Seward, Autobiography of W. H. Seward, p. 780. Wescott, of Florida, said in the Senate: "Gentlemen of the Far West * * * did not properly appreciate the imminent danger which hangs over the southeastern coast in the event of a war. There was not a gun mounted on the whole line of the coast." Deb. of Congr., XV., p. 366.

[3] "Well, sir, I reply to them, this is your policy, not ours; you have forced us into it against our will and our utmost opposition; you

clear-sighted patriot—however ardent his hatred of slavery—could wish to see the chains of the slaves broken by an uprising excited by a foreign foe. Perhaps it was true that slavery could end only in a fearful stream of blood, but, in that case, it would have to be the blood of citizens, for thus only could the struggle rouse the moral forces, whose presence and activity was the first condition required to make emancipation a blessing, not merely to the slaves, but to the entire land as well. The abolitionist inferences which Giddings drew from his premise could meet with no loud response, either in Congress or among the people, but the premise itself was expressly concurred in by many of the most trusty shield-bearers of the slavocracy. The other western representatives, it is true, clothed it in a somewhat different form, but by no means to the advantage of the south. We concluded a bargain; we have fulfilled our obligations, now do you fulfill yours—this is the alpha and omega of their reasoning, on which all the fine arguments of the southern gentlemen were shivered like glass upon a rock. The Baltimore convention, said Hannegan, is the cradle of the

have prepared the poisoned chalice, and we will press it to your lips until you swallow the very dregs.

"I would not be understood as desiring a servile insurrection; but I say to southern gentlemen, that there are hundreds of thousands of honest and patriotic men who 'will laugh at your calamity, and will mock when your fear cometh.' If blood and massacre should mark the struggle for liberty, of those who for ages have been oppressed and degraded, my prayer to the God of Heaven shall be, that justice, stern, unyielding justice, may be awarded to both master and slave. * * * If blood be shed, I should certainly hope that it might be the blood of those who stand between them and freedom, and not the blood of those who have long been robbed of their wives and children, and all they hold dear in life." Giddings, l. c.

twins, Texas and Oregon; but, no sooner have we placed Texas in your arms, than you seek to strangle Oregon.[1]

"The bond, the bond." The argument could not be refuted. The south had either to deny the bond, or consider how, by sophistries, gross or fine, it might interpret away its evident meaning. The declaration of the Baltimore convention could not be denied, nor did the south venture to dispute that this declaration had been a pact between it and the west. Hunter, of Virginia, expressed the deep gratitude of the south for the service which the west had rendered,[2] and Bedinger, of the same State, distinctly acknowledged, that the south had bound itself in return, to render like services in the Oregon matter. He even went further, and declared that the south wished to fulfill this pledge, and would do so.[3] Calhoun, Hunter, Yancy,[4]

[1] "Texas and Oregon were born the same instant, nursed and cradled in the same cradle—the Baltimore convention—and they were at the same instant adopted by the Democracy throughout the land. There was not a moment's hesitation, until Texas was admitted; but the moment she was admitted, the peculiar friends of Texas turned and were doing all they could to strangle Oregon!" Congr. Globe, 29th Congr., 1st Sess., p. 110.

[2] "The south acknowledges its obligations to our western friends; we feel it, feel it deeply and strongly, and would most gladly requite it. This, I believe, we may do by pursuing such a course of policy as presents the only hope of obtaining all Oregon, whilst it would save us from the dangers and sacrifices of a war, for which we are unprepared, and into which we must enter under circumstances less propitious than they are ever likely to be hereafter." Ibid., p. 92.

[3] "I would respectfully ask my western friends to put a little more confidence in the pledges of their southern brethren. It is not right nor generous to accuse the South of the selfish disposition to avoid this contest on her own account, and in considerations of her own interests only. We pledge them southern integrity and southern honor that we will stand by them in the hour of need. We differ with them as to the policy proper to be pursued." Ibid., p. 120.

[4] "I beg of our friends of the west, in particular (and surely a southron may well claim that sacred relationship to the sons of the

and all the other mouth-pieces of the south, gave the same assurance, and they showed themselves partly indignant, partly hurt, that the west could have doubted it, even for a moment. They surely ought not to be reproached for exerting a little friendly pressure to force the west into the only path which could lead to the goal; and if this course was also the way to avoid the so dangerous war with England, it was, evidently, so much the better for all concerned.

To this argument Hannegan opposed the question, why they did not pursue in Texas, against Mexico, the same policy of "masterly inactivity," instead of at once possessing themselves of the entire district, for which they were as little able to produce an undisputed title as for the northern part of Oregon.[1] The question was very weighty, nor was it easy to find an answer to it which could be safely uttered before all the world. But on this occasion there was no need of such an answer, for the south was obliged to leave unanswered a much broader and not less pertinent question. Its present reasoning, however just, could not excuse its conduct, for why had this reasoning been so solicitously concealed, at the time when it concluded its pact with the west? The Baltimore convention could not have been thinking of a policy of "masterly inactivity," although Calhoun had uttered the saying as early as 1843, for, if they were to sit with crossed arms and allow the *status quo* to continue, there was no need of any declaration whatsoever, and a challenging blare of trumpets

west), that if some of us of the south are disposed to put a curb on this hot impetuosity, we shall not be deemed their enemies on this great issue. Like them, I am for all of Oregon. With them, I believe our title to it to be complete against the world. My only desire is, that we so regulate our movements as to be able to secure it all." Ibid., p. 85.

[1] Ibid., p. 110.

was an absurd piece of folly. Thus the southern Democrats had, at any rate, played a double game, and had deliberately deceived their western party-associates. All the fine talk about the special friendship of the south for the west, and the inseverable community of interests between the two sections, could not alter this fact.[1] Jefferson Davis might repeat, with never so great emphasis, Calhoun's old assertion that the south had not urged the annexation of Texas from "sectional" interests, and he might affirm, with never so great confidence, that all attempts to sow dissension between the south and the west would be idle.[2]

[1] From year to year this theme is treated on every occasion with increasing warmth and certainty of conviction, and the more this alleged community of interests assumes the form of an axiomatic truth in the mind of the south, the more audacious does it grow in its demands, and the less scruple it shows in bringing the contest to the sharp alternative of secession. De Bow's *Commercial Review* [I. Sec., Vol. I., pp. 20, 21,] writes at this time: "They [the south and the west] are bound together by ties which can never be severed. Amid all the bitterness and jealousies which political influences have begotten, there is too much in common between these sections, too many similar interests exist, too many sympathies and connections, for them ever to act otherwise than united. Bound together in this way, their destinies are one. Elevated or depressed, it must be together." I shall hereafter enter more in detail into this question, and show how the south, fatally for itself, starting from half-true premises reached conclusions utterly false.

[2] "Sir, why has the south been assailed in this discussion? Has it been with the hope of sowing dissension between us and our western friends? Thus far, I think it has failed. Why the frequent reference to the conduct of the south on the Texas question? Sir, those who have made reflections on the south, as having sustained Texas annexation from sectional views, have been of those who opposed that great measure, and are most eager for this. The suspicion is but natural in them. But, sir, let me tell them that this doctrine of the political balance between different portions of the Union is no southern doctrine. We, sir, advocated the annexation of Texas from high national considerations * * * nor, sir, do we wish to divide the territory of Oregon; we would preserve it all for the extension of our Union." Deb. of Congr., XV., p. 361.

Such siren voices could not deceive even the most ingenuous backwoodsman. A much stronger impression was made by the warning of Culver, of New York, pointed, as it was, by deserved ridicule, not to allow themselves to be caught a second time and help the south to do away with the protective tariff of 1842, before settling the Oregon question; this rendering the south services on credit was a too poorly paying business.[1] The south was, indeed, right in thinking the ties which bound it to the west, too strong to be broken by its dishonesty in this affair; but the wedge of mistrust had been driven so deep into this league of friendship, that the west henceforth began to be much more inclined to examine the nature and the worth of this friendship with a critical eye. The west might long continue to furnish the most faithful following of the south, but the "Punic faith," which Hannegan had dreaded from the first was not forgotten and forgiven.[2]

Inasmuch as the hot wordy warfare in Congress had raged over the President's message with its acceptation of the Baltimore declaration and with its further propositions,

[1] "I ask my northern Democratic friends if this is the way their southern allies fulfill their compacts? Have you not been cheated? Is this the reward for your Texas fealty? Would you not have been wise to have kept Texas as a hostage for Oregon a few weeks? Pray, then, profit by experience. Don't be caught a second time. Southern friendship you will find coëxtensive with southern interests, and deep as southern pockets. They want your help on one occasion more. They wish your coöperation in striking down the tariff of 1842. Give them this, and let them stave off Oregon till the deed is consummated, and then, my word for it, the favors you get from them for Oregon, or for any other interest not kindred to their own, will be few and far between." Congr. Globe, 29th Congr., 1st Sess., Append., p. 198.

[2] "The time has now come when I should give the reason why I was not so much for Texas. Both Texas and Oregon were united in the Baltimore convention. But I dreaded—if Texas went first—I dreaded Punic faith. Yes, Punic faith." Congr. Globe, 29th Congr., 1st Sess., p. 379.

corresponding to this declaration, it would appear at first a matter of course that in this affair the President had separated himself from the south, and that the charge of Punic faith could not possibly touch him. Yet we are at once struck by the fact, that the southern representatives do not by any means denounce him, and are unmistakably desirous, as far as possible, of leaving his person out of the affair. And this considerate conduct is all the more remarkable, not only because it is in sharp contrast with the habits of the south otherwise, but also because, from the beginning, there are to be found on the opposite side those who do not believe that it can be assumed that there is any deep opposition between the policy of the President and the wishes of the south. As early as the 15th of December, Webster had said, with the utmost distinctness, that Polk evidently did not expect a war, and in fact did not see any grounds for alarm whatever.[1]

Even the most ardent of those who claimed all Oregon could not, were this really the fact, make it a ground of reproach to Polk, If they wished to form a judgment whether and how far the President stood in opposition to the views and wishes of the south, the question had to be framed thus: Is the President in favor of, or at least not opposed to, a war with England, in case it appear that the United States can in no other way secure exclusive possession of all Oregon? This question Douglas answered indirectly, it is true, but none the less emphatically in the affirmative. He affirmed that Polk's character afforded an absolute guaranty that, during his presidency, no treaty whatever would be concluded with regard to the northern boundary of Oregon, for Polk had declared: "No future

[1] Webst.'s Works, V., p. 61. So, still more sharply, Mangum, Feb. 9, Deb. of Congr., XV., p. 367.

European colony or dominion shall, with our consent, be planted or established on any part of the American continent." The President, therefore, could no more accept 54° 40′ for a boundary than 49°, or any other line.[1] It is true, the President is not answerable for this most surprising interpretation of the message, but only his officious panegyrist. But even if Polk had never thought of pledging himself not to allow a foot breadth of land west of the Rocky Mountains to be overshadowed by the British flag, he had still, sharply and distinctly, declared that he considered a compromise neither possible nor allowable. It is, however, inconceivable what sort of a new *modus vivendi* was possible, if the one previously existing was abrogated in accordance with his demand, and he stood by his declaration.

We seek in vain for the slightest intimation on this point in the message of the President, and in the debates of Congress. On the other hand, the view became daily more widespread that the President not only did not expect or desire a war, but that he had been determined from the start not to allow the affair to lead to a war. What, then, had he meant by his message? There was as

[1] "Sir, he who knows the character of the man—he who knows the stern integrity of his political character—he who knows the consistency of his whole political life—he who knows his fidelity to his principles, must know that, during his four years, this 'settled policy' will not be unsettled by him. Sir, he is not the man to put the distinct declaration forth to the world in the name of his government of a settled policy, and then to sneak back from it, to violate it, to disgrace himself and his nation, during that very presidential term in which he gave the notice. Then, I say, that during these four years, it is a settled, irrevocably settled question, that no treaty fixing a boundary for the northern part of Oregon can be made. Sir, the making of any treaty fixing a boundary would be a palpable violation of the very principle the President has put forth in his message." Deb. of Congr., XV., p. 354.

yet no attempt made to give a definite answer to this question, because people were too much occupied with the practically far weightier question: What does he now intend? To this a portion of the Whigs answered that it was intended to use the Whigs to extricate the administration from the unpleasant situation in which it had involved itself.[1] This section, at whose head Adams stood, was of the opinion that the party interests would be best subserved, and that, also, with regard to Oregon, the best results would be attained, and peace would be most surely preserved, by unanimously resolving upon notice of the convention of 1818–1827, and asserting the claims of the United States in a high, determined tone. On the other hand, another portion, under the leadership of Webster and Winthrop, not only thought such support of the policy of the administration dangerous for the party, but, above all, they did not think they could rightly assume the responsibility for the fearful consequences which might ensue to the country from too decisive an attitude, and particularly from notice of the convention.[2]

[1] Seward writes to Weed from Washington, Jan. 2, 1846: "He (Clayton) * * * unfolded a web of sagacious policy, designed to defeat Calhoun in his purpose of making the Whigs extricate the administration party from the difficulty into which they were falling in regard to Oregon." Autobiography of W. H. Seward, p. 771.

[2] "I spent last evening most singularly. Mr. Adams had made a speech, in which he demonstrated our claims to Oregon, and a readiness to defend them, which would form the proper ground on which negotiations could be conducted with the aid and support, at least, of the Whig party. The Democrats applauded him to the echo. The Whigs straggled from him, stumbled, and fell. The evening brought all the New York Whigs to my room for consultation. They concluded unanimously to sustain him, but the Whigs of the other states are panic-struck. Still the like counsels prevail in the Senate, and will be supported by all the Whigs except Mr. Webster. * * * You will see Mr. Adam's wise, sagacious, and noble speech. You will see that the New York Whigs, in the main, stand by him. They all will

While Webster with satisfaction saw[1] Calhoun undertake the leadership of the opposition in the Senate, the former were indignant at this unnatural alliance between their party associates and the great nullifier. Seward prophesied to them that the storm of popular opinion would sweep them from their places if they carried matters so far as to make the Senate oppose an incisive policy.[2] In the House of Representatives he expected to see the timid

do so. But Massachusetts, Connecticut, Ohio, and Kentucky Whigs are as credulous as all are honest. There is great danger that they may falter. The only way to secure peace, or save the Whig party, is to show harmony and unanimity in asserting our rights, and in readiness to defend them. The responsibilities will break down those who lead to danger, and we shall be able to negotiate safely. Calhoun and Webster are trying to effect an illstarred coalition of nullifiers with Whigs, to save slavery and free trade." Same to same, Jan. 3, l. c., and Jan. 6: "It is quite doubtful whether the counsels of Webster and Winthrop will not prevail in bringing the Whig party into their lineal position as heirs of federalism. The majority are breaking down before the demonstration of support the administration receives from us. The north and west are already deserted by their unprincipled southern allies." Ibid., p. 772.

[1] "Most of the Whigs in the Senate incline to remain rather quiet, and to follow the lead of Mr. Calhoun. He is at the head of a party of six or seven, and as he professes still to be an administration man, it is best to leave the work in his hands, at least for the present." Webster's Priv. Corresp., II., p. 215.

[2] "The resolution for 'notice' will pass the House by a large majority. The Whigs approach it with cautious steps, each beginning with modifications, but they will go the whole in the end.

"In the Senate, I now think that Mr. Calhoun, with Benton's aid, will try to defeat the motion altogether, or pass a resolution so pusillanimous as to be equally calamitous.

"Crittenden's resolutions are a ground of compromise, but the southern Whigs won't come up to them. They will fail altogether; and I look to see Calhoun take the Whigs with him. * * * It is in vain that I tell them that if 'notice' passes in the House, and is defeated in the Senate, the Senators will be instructed, and the obnoxious peace offering will be the signal of a tempest that will sweep them all from their places." Autobiography of W. H. Seward, pp. 775, 776.

Whigs, though hesitatingly and against their will, at last rouse themselves to a manly attitude, so that the attempt would fail to represent the Whigs in the light of a faint-hearted peace party, which would be solely responsible if the administration should prove unable to carry through the patriotic programme alone worthy of a great nation.[1] This, according to the views of this section of the Whigs, was the real object of the President. They did not believe that he would proceed energetically enough seriously to endanger the peace, and they had not the slightest doubt but that he would retrace his steps if he should be forced against his will to the bank of the Rubicon by the consequences of his first step.[2]

The further history of the Oregon question will show that this was the most obvious and least forced, if not the only, explanation of the President's attitude. On looking more closely, we shall be inclined to assume that Seward and those who shared his opinions, judged Polk too favorably rather than too harshly. All indications oppose the view that he had plunged thoughtlessly into difficulties

[1] "The Oregon question begins to drag. The panic of Wall street has begun to wear off there. It will appall some of our friends here a while longer, but I think we are safe from the peace party attitude being forced upon us by the Democratic gamblers." Jan. 30. Ibid., p. 784.

[2] Adams said, Jan. 7: "But, sir, there are other circumstances which I apprehend will prevent the occurrence of war; and my greatest apprehension is, that it will be by the ultimate backing out of the present administration and its supporters from the ground it has taken." Congr. Globe, 29th Congr., 1st Sess., p. 157. Likewise, as early as Dec. 14 and 26, in his journal. Mem. of J. Q. Adams, XII., pp. 221, 226. Giddings said: "It is most obvious to my judgment that he (Polk) cannot be driven into a war with England. * * * I declare that they will, before the nation and the world, recede from their avowed policy, and will surrender up all that portion of Oregon north of the forty-ninth parallel of latitude, or let the subject remain as it now is."

and dangers, to which his eyes had only been gradually opened by the debates in Congress. If, said Webster in a later speech (February 26), the head of a great nation regards a war with another great power as ever so remote a contingency, he looks out for the means by which such a war can be carried on. Not a word of the message, however, refers to this aspect of the question. The President, then, intends to negotiate. His conception of a negotiation that, on principle, excludes all concessions to England, and yet is to lead to some result is, to be sure, incomprehensible; but that does not alter the fact that a war is, to his mind, absolutely out of the question,[1] and that, too, not because he is convinced that England will under no circumstances draw the sword in behalf of her claims, but because he is determined to draw back if England declares war. This was the final conclusion from the premises which Webster left unexpressed.

Now, since Polk had directed two-thirds of the regular army to Texas, and had taken the preliminary steps to strengthen it as soon as possible with the militia of several states, although the Rio Grande could be reached much quicker than the Columbia, and Mexico was an incomparably less dangerous antagonist than England, and negotiations had been entered into with Mexico, it might be regarded as proved that, if he thought a war possible, he was neither so *naive* nor so unmindful of his duty as to await the declaration of war before beginning to think of his preparations. If the subsequent conduct of the President did not prove the contrary, we should, therefore, have with Webster, to seek the key of the real meaning of the message, not in what it said, but in what it left unsaid. But, although Cass had introduced his resolutions with

[1] Webster's Works, V., pp. 66, 67.

the knowledge and consent of Polk and of his minister, there fell from their lips, after as before, not a single word that could be interpreted as the slightest warning to think of the possibility of a breach with England. And when they at last, in response to a direct question, uttered such a warning, it was in a way that could only strengthen the conviction that their policy from the beginning had had no reference to the possibility of a war with England.

In order to attain certainty on this point, the Senate,[1] in accordance with a motion of Dayton, in the form of a resolution, inquired of the President whether, in consequence of the relations with foreign powers, he regarded as necessary an augmentation of the forces by land and sea. A message of the 24th of March[2] answered this question affirmatively. In this message Polk referred to the preparations of England which had, perhaps, not been originally decided upon with reference to her relations with the United States, but which would be turned against the latter, if the two powers should come to a breach on the Oregon question. He further called attention to the fact, that already in his annual message he had expressed himself in the sense of the question of the Senate. His recommendations, however, had had no reference to any particular question of foreign policy. As far as the land forces were concerned, the President, as he now repeated, had only invited them to provide for the protection of emigrants to Oregon, on their journey overland. And the recommendation to enlarge the fleet, and, in particular, to increase the number of steamships, had been founded solely on the general consideration, equally befitting any other time, that the navy no longer sufficed for the protection of commerce and the coasts, and did not

[1] On the 17th of March, 1846.

[2] Statesm.'s Man., III., pp. 1585–1587.

bear the right proportion to the fleets of other powers. Polk added, that, in his opinion, more must be done now than he then had thought requisite. How far in this he was thinking of Mexico, which he mentioned at the same time, may for the present be disregarded. The message contains no direct answer to this question, and, furthermore, says nothing as to what and how much must now be done. With regard to this point, which is, of course, decisive of our judgment of Webster's assertion, the message referred to reports of the Secretary of War and of the Secretary of the Navy of the 29th of December and the 8th of January, which had been delivered to the proper standing committees of the two Houses at their request.

It was in the highest degree remarkable that this was the first intimation Congress received of the existence of these reports. The direct responsibility for this, indeed, rested on the committees concerned. But, if the Administration regarded the matter as of importance—which must be assumed after the message—it had at its command a hundred ways and means to bring it before the body of the two houses, even though the committees were guilty of criminal neglect, or secretly sought to cross the policy of the President. The two Houses, however, only knew, that it had been proposed by the committees to strengthen the companies, which would have resulted in an aggregate augmentation of the regular army by about 1,500 men, and to construct ten new steamships, most of them of small size. And since, as will be readily understood, they found it hard to believe that these were proper measures to be taken against a prospective war with England, they demanded from the members of the committees information concerning the reports of the two ministers. In the Senate, Benton answered for the Committee on Military Affairs, that the committee, indeed, had docu-

ments from the War Department in its possession, but it did not appear advisable to make them known. Fairfield, of the Committe on the Navy, was at first wholly deserted by his memory, but finally bethought himself that the committee had received estimates, but he was no longer able to recall the exact figures. In the House, T. Butler King, of the Committee on the Navy, was ready with word and answer, but the majority shut him off.

When afterwards the reports of the two ministers were made known, the astonishment at these more than peculiar proceedings increased. The Secretary of War had declared, that, in the event of a war with England, at least 50,000 men would be necessary, but neither he nor the President had felt himself called upon to remark that the men who possessed the confidence of Congress regarded 1,500 sufficient. Still more surprising was the conduct of the Secretary of the Navy. He had, in fact, only asked for the ten ships which were to be given him, but his subordinates, who, it must be confessed, were wholly uninitiated in the secrets of the higher region of politics, thought that about seven times as many were required. Fairfield thought himself bound to show emphatically that neither the President, nor the minister, nor the committee could be held responsible for the silly calculations of these scrivener souls.[1] This capped the

[1] "If the people regard the recommendations for building seventy-five ships of war and steamers at a cost of over twenty millions of dollars, to be signally extravagant, neither the President, secretary, nor committee will be found in any way implicated in it. On the contrary, so far from adopting the recommendations of the chief of the bureau, the secretary, in his written communications to the committee, recommended the building of ten war steamers only." Niles' Reg., LXX., p. 84. Yet even in his opinion the bill was intended only to "afford to the country some sense of security against sudden attacks of the enemy upon our seaport towns." If a war with England was "inevitable," then he admits "this bill falls in-

climax, and transferred to the domain of the ridiculous an affair well calculated to recall the first words of Mangum, that a game had been played which was unworthy of the American character.

This was the impression received in England. Polk's thunder at first, though it did not alarm, had, nevertheless, embittered them, but now they shrugged their shoulders almost contemptuously at this Jupiter manqué. They were now certain of this, that he would come down from his high horse and agree to a fair settlement.[1]

finitely short of what it should be." And on this follows a sentence, which, reviewed in the light of these declarations and the facts given in the text, looks very much like a direct admission that the difficulties with England were only used as a pretext. "Thus far, no reference has been made to our existing relations with Mexico; and yet in these relations some may find their strongest reasons for the support of this bill." Deb. of Congr., XV., p. 347.

[1] The London Times wrote: "Mr. Polk has neither inspired the world with confidence as a friend of peace, nor with a salutary terror as an author of war. In professing to raise and uphold the character of the United States Government, he has allowed it to forfeit a character for discretion without gaining a character for strength, and the only suggestion which appears to us to account for his conduct is that of extreme incapacity. He has done everything to aggravate the difficulties of negotiation, and nothing to provide for the possibility of their failure. What would have been thought or said in this or any other country, of a government which should deliberately leave its coasts unprotected, its fleets unmanned, its armies unequipped and undisciplined, and the whole machinery of war unprovided, whilst its policy provokes a simultaneous resistance from the powers on each side of their territories? The thing is without a precedent. * * * Before Mr. Polk placed himself in this ridiculous position, he ought to have calculated the means he had at his disposal for getting out of it. A few months ago he might have settled the Oregon question on equal terms with complete honor and dignity. At present, whatever be the turn given to the negotiation, the President will not escape the imputation of yielding to the necessity of the case, and accepting terms which are backed by the whole force of Great Britain." Niles' Reg., LXX., p. 209.

CHAPTER VII.

The Double Game Against England and Mexico. For Weak Mexico a Peace Policy with Drawn Sword.

Hunter had sought to cool the blind zeal of the gentlemen from the northwest by the observation, that, in the event of a war with England, it was probable that no troops whatever could be sent to Oregon since Mexico would immediately fall upon them, and the whole Union would be "encircled with a wall of fire."[1] That the progress of subsequent negotiations with England and with Mexico must be essentially influenced by the fact, that the United States were simultanously occupied in two directions, was, indeed, plain to everybody. The only question was, whether, as Calhoun thought, an accord with England was the precondition of an understanding with Mexico,[2] or whether it was not much rather the contest with Mexico which was to prove decisive for the determination of the Oregon question.

Texas was now a state of the Union. On the tenth of December its admission had been moved in both Houses, it having complied with all the conditions established by

[1] Deb. of Congr., XV., p. 329.

[2] "A further inducement for dispatch in settling the Oregon question is, that upon it depends the settlement of the question with Mexico, Until the former is settled, there is but slender prospect that the latter can be; for so long as the Oregon question is left open, Mexico will calculate the chances of a rupture between us and Great Britain, in the event of which, she would be prepared to make common cause against us. But when an end is put to any such hope, she will speedily settle her difference with us." Calh.'s Works, IV., p. 267.

the joint resolution.[1] In the House of Representatives, on the sixteenth of December, the third reading of the bill was resolved by a vote of 141 to 57. Washington Hunt, of New York, refused to vote, on the ground that the previous question had prevented all debate, and had not allowed the delegates time to convince themselves that the Constitution of Texas was unobjectionable.[2] Now the Constitution contained a provision the admissibility of which had been expressly called in question by several representatives. The Legislature was denied the power of abolishing slavery, unless the slave holders should not only receive a compensation, but should have previously declared themselves satisfied with the measure. Rockwell, of Massachusetts, moved to refer the bill to the Committee on the Territories, with instructions to strike out this clause. The speaker, in conformity with the previous practice of the House, held the motion in order, the House, however, reversed this decision, and declared the motion excluded by the previous question.[3] According to Rockwell's view, these provisions conflicted with the stipulation in the resolutions of annexation that slavery should not be allowed in the states ultimately to be formed from Texas, so far as they lay north of 36° 30′.[4] But even Hale, who was certainly not less eager than Rockwell to bar the way of the slavocracy, declared this objection untenable.[5] The

[1] Deb. of Congr., XV., p. 267.

[2] Ibid., pp. 289, 290.

[3] Congr. Globe, 29th Congr., 1st Sess., Append., pp. 51, 52, 194.

[4] He says: "In open violation, if not of the letter, certainly of the spirit, of that stipulation on our part.

[5] May 21, 1850, he says in the Senate: "There is not a syllable in the resolution of annexation even squinting at the idea that there is a restriction of slavery in any part of it. The provision is, that whenever Texas consents to cut herself up into new states, those which shall hereafter be formed out of territory lying north of 36° 30′ shall not have slavery. That is the whole restriction. There is none until

resolutions of annexation did not impose the slightest restriction with regard to slavery on the present state of Texas, and if this fact rendered nugatory the restrictions adopted with reference to the ultimate partition of the state, they should have thought of this sooner and acted accordingly. It was not the conditions of the resolutions of annexation, but the stipulations of the Missouri compromise, that were violated, and the responsibility for this rested not with Texas and its Constitution, but with Congress and the President, who had passed the resolutions of annexation. The north had not only been lured by a shadow, but a second time had showed itself ready to make a wide breach in the wall, which, scarce a generation before, it had erected for its protection against slavery. Complaints and objections were now too late. It was, indeed, characteristic that, as early as the 16th of December, after Rockwell alone had been allowed to speak, the resolution was passed by the House by a vote of 141 to 56,[1] but nothing would have been changed if they had debated it for weeks and months. The Senate also contented itself with a short debate, in which the only thing to be noted is, that Webster, in his own name, and in the name of Massschusetts, protested against the annexation. On the 22nd of December the resolution was passed by a vote of 31 to 14.[2]

In the meantime Slidell had arrived in Mexico. As soon as the Mexican government had been informed of his arrival at Sacrificios, the Minister of Foreign Affairs had an interview with the consul, Black, in which he expressed

Texas of her own accord consents to divide her own territory. There was no compromise—36° 30′, nor any other line—by which slavery was excluded from one inch of territory over which she extended or claimed jurisdiction." Congr. Globe, 31st Congr., 1st Sess., Append., p. 654.

[1] Congr. Globe, 29th Congr., 1st Sess., p. 65.

[2] Ibid., p. 92.

his surprise and his deep regret that a representative of the United States had put in his appearance so soon. After his previous interviews with the consul and other persons, he had thought himself justified in expecting, that a commissioner would not be named, till after the assembling of Congress at Washington. The government desired an amicable settlement, but time was needed to win the people to this view; if a decision was forced upon them now, it would probably overthrow the government and render an understanding impossible. It was, therefore, desirable that the commissioner should not disembark, or at least, should not immediately proceed to the capital.[1]

Upon this, Black went to meet Slidell at Pueblo, and imparted to him the views and apprehensions of the minister. Nevertheless, Slidell continued his journey without delay. On the 8th of December, on the second day after his arrival in the capital, he announced himself officially and in writing to Peña y Peña, as envoy extraordinary and minister plenipotentiary of the United States, and enquired when he could present his credentials to the President Herrera.[2] Peña y Peña delayed his answer a few days. It was only in response to a reminder that Slidell was informed on the 16th of December that the delay had been caused solely by the fact that the copies of the credentials sent did not conform to the agreement that had been made with consul Black; and on account of the embarrassments hence arising, the ministers found it necessary to consult the council of government[3] on the credentials.[4]

[1] Mr. Black to Mr. Buchanan, Mexico, Dec. 18, 1845. Exec. Doc., 30th Congr., 1st Sess., Vol. VII., No. 60, pp. 22, 23.

[2] Exec. Doc., 30th Congr., 1st Sess., Vol. VII., No. 60, p. 27.

[3] "I am acquainted with the Mexican documents only in the English translation."

[4] l. c., p. 31.

Slidell, in his report of the 17th of December to Buchanan,[1] pronounced this consultation of the council of government "altogether gratuitous," since the executive had not been under any obligations to take this course, and had wholly ignored the council of government when it "determined to renew diplomatic relations with the United States." He further confirmed the severe reproof that lay in this assertion by saying that the government had no control of the council, and that it might have been foreseen that the latter would pronounce against his reception, as it had done. But, at the same time, he himself draws a picture of the state of affairs, which affords conclusive evidence that the government could not possibly have acted otherwise than as it did. He confirms the assurance of Peña y Peña, that the government honestly desired an amicable adjustment of the dispute,[2] but, nevertheless, thinks "the prospect of any favorable issue to negotiations with them, at best very problematical," because they are so utterly impotent that their existence at all is prolonged, only because their adversaries cannot come to terms with each other. All their efforts were directed to gaining time.[3] How they could have acted

[1] Ibid., pp. 23–27.

[2] "The impression here, among the best informed persons, is, that while the President and his cabinet are really desirious to enter frankly upon a negotiation which would terminate all their difficulties with the United States." * * * It is a remarkable fact that in the copy of the dispatches which the President sent to Congress, this important sentence is broken off in the middle.

[3] * * * "Their existence hangs by a thread, and they retain power, not by their own force, but solely by the inability of their opponents to agree among themselves. The great object of the administration, in all matters, is to gain time; to do nothing to compromit themselves, in the hope that if they can hold over until the meeting of the new Congress, which will take place on the first of January, they will then be enabled to maintain their position."

otherwise under the circumstances, Slidell does not say. This, at least, is indubitable from his own testimony, that if they had received him without regard to the council of government, they would thereby only have cut the "thread" on which their own existence hung, for without this their fall was plotted in the council,[1] and the reproach made against them was just this, that they were too eager to make advances to the United States. Slidell himself could not have believed that, notwithstanding all this, they could venture to ignore the wishes of the council and of public opinion; since, in spite of their temporizing, he regarded a revolution as probable,[2] and, indeed, on good grounds, for Paredes, two days before (December 15), had issued a pronunciamento.[3]

We might have expected that the knowledge of all these facts must have forced upon Slidell the question, whether it would not, perhaps, have been for the interest of his mission to delay his arrival at the capital, in accordance with the wishes of the Mexican government, at least, until after the assembling of the new Congress. In his dispatches to his government, nevertheless, there is not the slightest indication to be found that this question had ever presented itself to him. It was, in truth, much easier to declare the arguments, which had been advanced in the council of state against his reception, as "incredibly absurd."[4] It might, however, be somewhat less easy to

[1] "It is a notorious fact, that several of the members of this council are not only in open and violent opposition to the present administration, but are endeavoring to get up a revolutionary movement to overthrow it; and it is generally understood that a majority of them are unfavorably disposed towards it."

[2] "A revolution, and that before the meeting of Congress, is a probable event; a change of ministers, almost a certain one."

[3] l. c., p. 34.

[4] "The most absurd reasons have there been advanced against my recognition; so absurd, indeed, that they would appear scarcely cred-

bring proofs of the justness of this assertion. That his nomination still lacked the confirmation of the Senate, was certainly only a pretext, since it was not unusual for ambassadors to depart to their posts without it, if the Senate did not assemble in time. On the other hand, it was by no means a matter of indifference that, while Mexico had only declared herself ready to receive "a commissioner for adjustment of the present difficulties," a regular "ambassador" had now been sent. Neither one of the two governments, however, could hold the other responsible for this "difficulty," since it had been caused by an equal lack of sincerity on both sides. Polk had enquired whether Mexico would receive an ambassador for the adjustment of all contested questions, to which Mexico had replied affirmatively in a form which, in fact, was not an acceptance of the proposition, but a counter proposition, and Polk had then acted as if his proposition had been accepted. Both parties now stood obstinately upon the letter of their declarations, and both were obviously as much in the right as in the wrong. But that, as Polk, Buchanan, and Slidell unanimously maintained, Mexico was using a purely formal distinction to veil her disgraceful breach of faith, was an absurdity. If it was only an idle question of form, why did they not themselves yield? They were, however, so far from doing this that in the same breath they declared the distinction so essential that they never could have thought of treating the boundary question independently of the old claims against Mexico.[1]

ible to any one not upon the spot." Again dots follow in place of which one could wish to see the words of the original. Polk afterwards said instead of "absurd," "the most frivolous pretexts." Stateman's Man., III., p. 1595. And Buchanan wrote: "The Mexican authorities have been quibbling about the mere form of your credentials." Exec. Doc., l. c., p. 54.

[1] Stateman's Man., III., p. 1594. So Buchanan, Exec. Doc., l. c., p.

It was quite right for Polk to wish, simultaneously with the boundary question, to clear up the mutual accounts with reference to those items which stood to the "credit" of the United States, nor could any objection be taken to his seeking to use them as a means of forcing a favorable settlement of the other question. But this mote in Mexico's eye was again transformed into a beam. It looks a little strange, to begin with, that the pistol should be pointed at Mexico's breast on account of the "enormous aggregate" of $8,491,603,[1] while, at the same time, six States of the Union owed $52,000,000, without paying their creditors either interest or capital.[2] But what places the matter in a still more peculiar light is the fact that, at the conclusion of peace, the United States undertook to pay the claims of American citizens against Mexico to the amount of $3,250,000 only,[3] and Mexico was relieved from all further obligations. Now, since there had been no new examination of the claims in the meantime, this was equivalent to a formal declaration on the part of the United States, that, at the most, something over a third of their claims could be regarded as having any foundation.

If Polk could not be blamed for his unwillingness to treat the boundary question independently of the claims, Mexico, on her side, had, to say the least, an equally sound reason for refusing to receive a regular ambassador, lest the decision of the Texas question should thereby be

54. In Slidell's instructions of November 10, 1845, we even find: "The first subject which will demand your attention is the claims of our citizens on Mexico." Exec. Doc., 30th Congr., 1st Sess., Vol. VIII., No. 69, p. 34.

[1] Exec. Doc., 30th Congr., 1st Sess., Vol. VII., No. 60, p. 41.

[2] Jay, Review of the Mexican War, p. 135.

[3] Stat at L., IX., p. 933.

prejudiced against her. She had broken off diplomatic relations with the United States on account of the annexation of Texas, because she still claimed it as her province. If she were now to consent that the first step towards an approximation between the two powers should be the formal reëstablishment of diplomatic relations in their full extent, she would by so doing abandon her protest against the annexation, which had consisted in the breaking off of diplomatic relations; in other words, she would be silently recognizing the annexation and would leave herself free to treat only of the boundaries. If Slidell should be received as "ambassador" in accordance with his credentials, they would not enter into negotiations for a settlement of the dispute, as hitherto understood, but Mexico would begin by the abandonment of her main position in order to facilitate negotiations of detail.

A second letter of admonition from Slidell, of the 20th of December, called forth a formal announcement dated the same day that he could not be received as ambassador for the reasons above developed. Peña y Peña's argument was couched throughout in a dispassionate and polite form, and closed with the declaration that the Mexican government was still prepared, in accordance with its former promise, to treat with him about Texas as commissioner *ad hoc*. Slidell replied on the 24th of December, with a lengthy document, in which he undertook to refute the reasoning of Peña y Peña, and recounted at length all the wrongs which the United States had had to endure from Mexico. In his dispatch of the 27th of December to Buchanan he expressed his fear that he had not replied to the Mexican government with proper severity "for its unparalleled bad faith, its gross falsification of the correspondence which led to my appointment, and the utter futility of the miserable sophistry by which it at-

tempts to justify its conduct." He prayed that this might be excused, since the annals of diplomacy offered no precedent for his position, and he had been unwilling to render impossible all further attempts at an understanding. In reality his letter was conceived in an imperious and grossly insulting style, such as he would never have ventured upon towards a power standing on anything like a footing of equality with the United States.[1] In conclusion he announced, that, after a few days, he would return to Jalapa to await further instructions there.

Before it was known at Washington that the refusal to receive Slidell as "ambassador" already announced as probable had actually taken place,[2] a resolution was adopted in the White House, that left scarce the faintest shadow of a probability that the knot could be loosed and not cut.

On the 13th of January, 1846, orders were sent to Taylor to advance to the Rio Grande with all his force as soon as practicable.[3] Since the despatch does not contain the

[1] * * * "The task * * * of * * * demonstrating the glaring impropriety of that (course) which the Mexican government seems determined to pursue. * * * The annals of no civilized nation present, in so short a period of time, so many wanton attacks upon the rights of persons and property as have been endured by citizens of the United States from the Mexican authorities—attacks that would never have been tolerated from any other nation than a neighboring and sister Republic." Exec. Doc., 30th Congr., 1st Sess., Vol. VII., No. 60, p. 40. The second sentence was, for the rest, with the exception of two wholly insignificant alterations of style, taken verbatim from his instructions of Nov. 10th. No. 69, p. 35. On this Jay remarks: "It is to be apprehended that this gentleman is either very imperfectly acquainted with the annals of civilized nations, or very unscrupulous in drawing inferences from them." Review of the Mexican War, p. 116.

[2] Up to the 12th of January, Slidell's dispatch of the 17th of December was the last received. Exec. Doc., 30th Congr., 1st Sess., Vol. VII., No. 60, p. 53.

[3] Ibid., pp. 90, 91.

slightest indication of the reasons for this order, we are forced to seek an explanation of the President's motives elsewhere.

In Buchanan's despatch to Slidell, of the 20th of January, we read that the President, "in anticipation" of the refusal of the Mexican government to receive the latter, has sent Taylor forward to the Rio Grande, and given him orders to get together a "strong fleet" in the Gulf of Mexico.[1] No other reason is assigned in the official correspondence, and this reason is so advanced as to imply that such a refusal on the part of Mexico must, as a matter of course, have this result. The official documents, too, state clearly and distinctly the reason for the order of the 13th of January, but they utterly fail to justify it. And yet this ought not to have been difficult, since the step was held to be so urgent, that they could not even await the occurrence of the event, of which it was pointed out to be the necessary consequence. This haste can perhaps be best explained on the supposition that Polk had expected aggressive action on the part of Mexico, as soon as the fall of Herrera, which Slidell held imminent, should have taken place. Polk declared, in his war message of the 11th of May, that the order of the 13th of January had been issued because it had been "of urgent necessity" to provide for the defense of the country, and because an invasion had been threatened on the side of the Rio Grande,[2] but these statements had to be taken on faith. Moreover, he confined himself to general assertions, and did not say that relations had assumed such a shape at that time, that an attack had been more to be apprehended just then than in any of the preceding months. From the entire silence of

[1] Exec. Doc., 30th Congr., 1st Sess., Vol. VII., No. 60, p. 54

[2] Statesm.'s Man., III., p. 1596.

the message on this point, we are rather justified in concluding that this, in his opinion, had not been the case. But the only subsequent change in the situation was, that Herrera had fallen on the 30th of December, and, according to his own testimony, solely because he had sought an understanding with the United States.[1] Polk, however, could certainly not rely on this to justify himself, for, in the first place, Herrera's fall was not known in Washington on the 13th of January, and Slidell had, moreover, declared that he hoped to attain his objects more easily with a more hostile but more energetic government.[2] Lastly, he pictured the situation in Mexico as in every respect so desperate, that the new government could not possibly be expected to plunge blindly into an aggressive policy,[3] even though it had brought about the fall of its predecessor, by

[1] Aug. 25, 1847, he writes to Pacheco, the Minister of Foreign Affairs: "For no other act than showing that there would be no obstacle to his [Slidell] presenting himself and having his propositions heard, my administration was calumniated in the most atrocious manner; for this act alone the revolution which displaced me from the command was set on foot." Exec. Doc., 30th Congr., 1st Sess., No. I., p. 41.

[2] Ibid., Vol. VII., No. 60, p. 26.

[3] "The country, torn by conflicting factions, is in a state of perfect anarchy; its finances in a condition utterly desperate." l. c. "But the greatest difficulty with which Paredes has to contend, is in the state of the finances. Indeed, I do not see where means can possibly be found to carry on the government. The annual expense of the army, alone, exceeds twenty-one millions of dollars, while the entire net revenue is not more than ten to twelve millions. * * * The best index of the state of Mexican credit is, the price of a class of securities, on which the interest, at the rate of 6 per cent. per annum, had, until recently, been paid with some degree of regularity, and for which a part of the import duties, supposed to be sufficient, had been specially hypothecated. They are now nominally at 25 per cent., but, if offered in any quantity, would not command 20 cents on the dollar. While there is a prospect of war with the United States, no capitalist will loan money at any rate, however onerous. Every branch of the revenue is already pledged in advance." Ibid., p. 51.

the charge that it had not properly maintained the honor of the country against the United States.

Nor had any information been received from Taylor, which could be used in any way as supplying a motive for the order to advance. On the 7th of November, he pronounces the position at Corpus Christi "the best while negotiations are pending, or at any rate, until a disposition shall be manifested by Mexico to protract them unreasonably."[1] The qualifying clause, indeed, shows that Taylor is already thinking of an advance, but it is equally clear from the same clause, that it is not because he wishes to meet at the threshold an impending attack. Twelve days later, he thinks relations with Mexico wear a friendly aspect,[2] and as late as the 7th of January, he announces that all is quiet on the Rio Grande, and the population is desirous of peace.[3] Nay, at the moment of preparing for his departure, he gives the most definite assurances that he shall meet with no resistance.[4]

The order of the 13th of January was, then, no precautionary measure, determined by military considerations. It must, therefore, have originated in political considerations, and presumably in considerations that shunned the light, since there is not the slightest intimation of them to be found in the messages of the President and in the

[1] Ibid., p. 111

[2] Ibid., p. 114.

[3] Ibid., p. 115.

[4] "Many reports will doubtless reach the department, giving exaggerated accounts of Mexican preparations to resist our advance, if not indeed to attempt an invasion of Texas. Such reports have been circulated even at this place, and owe their origin to personal interests connected with the state of the army here. I trust that they will receive no attention at the War Department. From the best information I am able to obtain, and which I deem as authentic as any, I do not believe that our advance to the banks of the Rio Grande will be resisted." Feb. 16, 1846. Ibid., p. 117.

dispatches of the Minister. We must, accordingly, be content if we can find an indirect explanation of them. Now, if in the reports of Slidell we can find a solution inherently probable, we shall be the more justified in regarding it as the right one, because it is clear from the entire course of the correspondence, that the envoy from the beginning to the end was in the most complete and intimate accord with the administration in this matter. And everything leads us to believe, that also the final declaration of his report of the 27th of December, in which he announced the definite refusal of Herrera, was written in the very spirit of the administration. "The desire of our government," he said, "to secure peace will be mistaken for timidity, the most extravagant pretensions will be made and insisted upon, until the Mexican people shall be convinced, by hostile demonstrations, that our differences must be settled promptly either by negotiations or the sword."[1] On the sixth of February, he supplements this judgment by the significant observation, that it could be foreseen that the attitude of the new Mexican government with regard to the question of his reception would be "mainly" determined by the state of the Oregon question: "Should our difficulties with Great Britain continue to present a prospect of war with that power, there will be a very faint hope of a change of policy here."[2]

This last assumption was not only evidently well founded, but it was also a conclusive argument for the justice of the first assertion. With England by her side Mexico needed not shun a war with the United States, and, besides, she could assume that the United States would not proceed to extremities before they should have come to terms with

[1] Ibid., p. 35.
[2] Ibid., p. 56.

England, or, at least, could look forward with confidence to an understanding with the latter power. But if two-thirds of the army of the Union[1] appeared on the Rio Grande, there was no longer room for doubt but that, as far as it depended on the President, an irrevocable decision had been formed to bring the contest with Mexico to an issue in one way or another.

Was it, however, probable that Mexico would yield to the pressure which Taylor's advance was intended to exert? That she would regard it in an altogether different light from the massing of troops on the Nueces, was certain. Even in Texas there were people to be found who, although in the interests of slavery they demanded the country up to the Rio Grande, were honest enough to admit that the Nueces was the old boundary.[2] And, although Mexico still formally clung to her claim to all Texas, her actual attitude had shown clearly enough, how fully conscious she was, that, up to this old boundary the territory was irrevocably lost. The region on the Rio Grande, on the contrary, as we have seen, always had been and still was in the possession of the Mexicans. It was not, therefore, to be apprehended that she would not interpret the execution of the order of the 13th of January as a "hostile demonstration," since she could not regard it otherwise than as an invasion of her territory.

Polk, nevertheless, hoped that this step would not goad Mexico to resistence at any cost, but would only serve to intimidate her. On the 28th of January, before it was

[1] Statesm.'s Man., III., p. 1586.

[2] In the House of Representatives, a letter of July 23, 1845, from a citizen of Austin to the editor of the *New Orleans Picayune* was cited, in which we read: "The old boundary was the Nueces," and "unless we occupy that river (the Del Norte) there is no locality for slaves west of the Colorado." Cong. Globe, 29th Congr., 1st Sess., p. 558 and Append. p. 580.

yet known in Washington that Herrera had succumbed to his adversaries, Slidell was instructed to try his fortunes with the new government also, since the President, both from inclination and policy, was desirous of maintaining the peace. This was followed, however, by the declaration that if Paredes also should refuse to receive him, forbearance must have an end, and nothing would remain but to help the injured citizens of the United States to their rights, and procure satisfaction for the insults put upon the Government.[1]

Since the citizens were mentioned first, it would appear that the emphasis was meant to be laid on the claims for indemnity. With regard to these claims, however, Taylor's advance, if the matter rested there, was utterly meaningless, for in Polk's view the whole occupied territory was "Texas," that is, Union territory. If Mexico did not allow herself to be intimidated, and the army was expected to prove of any service in the exaction of their claims for indemnity, it could not remain stationary on the Rio Grande; nor was it intended that it should, although Taylor had again been directed to hold himself on the defensive, and not to treat Mexico as an enemy, so long as she did not declare herself such by an act of open hostility. Buchanan's dispatch to Slidell, of the 20th of January, already referred to, shows us that this was not to be the last word on this point. Immediately upon the communication of the order of the 13th of January follows the pregnant sentence: the President "will thus be prepared to act with vigor and promptitude, the moment that Congress shall give him the authority."[2]

This sentence is significant from still another point of

[1] Exec. Doc., 30th Congr., 1st Sess., Vol. VII., No. 60, p. 55.
[2] Ibid., p. 54.

view. Here for the first time we hear that, after all, Congress has a word to say in the matter. It somewhat surprises us, however, in the next dispatch to learn, in spite of this admission, that if Mexico definitely refuses to receive Slidell, "it will then become the duty of the President to submit the whole case to Congress." Had it never occurred to Polk, that, if it would then be his duty to do this, it would have been at least seemly for him to make some communication to Congress at the time, when, in "anticipation" of such a refusal, he determined to send Taylor to the Rio Grande? No difficulties stood in the way of his so doing, for Congress was already in session. Polk and his minister were hardly so simple as not to have thought of this, nor did they regard the order of the 13th of January as so unimportant, that its communication to the Senate would be superfluous. They did not intend that Congress should know anything of the step, which, in all probability, cut the thread by which the sword hung; they wished to confront it with an accomplished fact.

The order of the 13th of January was carefully concealed. But it is not an easy matter to keep political secrets at Washington, and this one came to the ears of persons for whom it was not intended. On the 3d of February, Bayly, of Virginia, moved in the House of Representatives that the President be requested to communicate documents not yet made known concerning relations with Mexico, and, more particularly, to inform the House whether the army and fleet had received orders to set themselves in motion against Mexico.[1] Haralson, of Georgia, chairman of the Committee on Military Affairs, and Boyd, of Kentucky, who, in this matter, was regarded

[1] Cong. Globe, 29th Congr., 1st Sess., App., p. 812.

as the leader of the Administration party, parried the blow which the passage of this motion would have inflicted on the President's plans. Bayly's resolution was voted down, and the members of the House in so doing made themselves participants in the guilt of the dark work which had been so busily and cunningly carried on in the White House.

CHAPTER VIII.

The Stage Thunder dies away, and the Storm Begins.

The order of the 13th of January had remained a deep secret for a surprisingly long time. It was only "long after" that Calhoun learned of it from Clayton, and at first he refused to credit the rumor. The two senators agreed in thinking it desirable to thwart the execution of the order, but Clayton thought that, as a Whig, he could do nothing in the matter; and Calhoun, in spite of the urgency of his colleague from Delaware, refused to take the matter in hand, because he feared a war with England even more than a war with Mexico, and, in order to guard against the former calamity, he thought it necessary to keep up the best understanding with the President.[1]

Calhoun's attitude towards the Mexican war from beginning to end excludes all doubt that this scruple was honest, but it was none the less entirely idle. As early as the 27th of January, Ritchie's *Daily Union* had declared that, in the present state of affairs, if England proposed the 49th degree for a boundary line, the offer could well be accepted. Hannegan, it is true, stated in the Senate that the President had not read this article before its publication, and disapproved of it; but the *Union* did not recede from its position, although it admitted the correctness of Hannegan's statement.[2] If Polk had still held firmly to his former declarations, his organ would hardly

[1] Calhoun's Works, IV., pp. 338, 339.
[2] Mem. of J. Q. Adams, XII., p. 239.

have allowed itself such liberties. This, at least, people might conclude with Senator Miller, of New Jersey, from the article in the *Union*, that the war comet was about to disappear below the horizon. Nay, the House of Representative soon after let it be understood that its further lingering in the heavens was uncalled for. Senator Dayton later gave it as his opinion, that they had followed the example of the Chinese, and with gongs, kettles, and wind instruments of every description, had made a horrible noise in order, with this devil's music, to frighten the English barbarians from an attack.[1] There were, to be sure, many musicians who still manifested no desire to spare their lungs and arms, but the orchestra, as a whole, had passed over from a fortissimo to a marked decrescendo. On the 9th of February, the House by a vote of 163 to 54, resolved to give notice of the termination of the convention of 1818–1827,[2] but only after the resolution had been first wholly stripped of the character of a challenge, which it had seemed to wear in its original laconic and peremptory form. Not only was the "at once" struck out, but it was added, by way of explanation, that the resolution was in no way intended to preclude negotiations for a friendly adjustment of the difficulty.

The Senate could not bring itself to go so far. It seemed that the debates never would terminate. Yet, however often the same arguments were repeated on both sides, the time was not wholly wasted. The longer the decision was put off, the more sober became public opinion. Every day it became more evident, not only that the notice of the termination of the convention would be wholly without evil effects, if the Senate should decide for it at all,

[1] Deb. of Congr., XV., p. 405.
[2] Congr. Globe, 29th Congr., 1st Sess., p. 349.

but also that the great majority of the people would feel thankful to the Senate for such a result. Even those who had never thought Polk's fiery zeal genuine, were still highly surprised that, before the more prudent party, under the leadership of Calhoun, thought the time had come when they might safely abandon their dilatory tactics, and bring the question to a decisive termination, an emphatic confirmation of the *Union* article of the 27th of January came from the midst of the administration camp.

On the 4th and 5th of March Haywood, of North Carolina, undertook, in a long speech,[1] to maintain the proposition that Polk had never raised any claim to the territory up to 54° 40′. It was only of late that people had chosen to assume that "Oregon" extended so far to the north. Originally this name had covered only the territory to the 49th degree. The Baltimore platform spoke of Oregon only in this original and proper sense, for it required the reöccupation of the region, and the country beyond the 49th degree had never been occupied by citizens of the United States. Polk had taken his stand on this platform, and, in accordance with it, he had offered England the 49th degree as a boundary. If England should now make a similar offer, he could, therefore, accept it without the slightest inconsistency, for after the non-acceptance of his proposition he had only said to Congress: I have done my duty; it is now for you to say what you wish to do. If you are disposed to wage a war for 54° 40′, say so, and I will enter into no further negotiations; if you do not wish this, say so, and we will take our stand at the 49th degree.

The Senate had followed these detailed explanations with the utmost suspense. Before Haywood's last word

[1] Ibid., App. pp. 369–378.

had died away, it became evident that it was a bombshell hurled into his own camp. Hannegan had sprung to his feet, not to answer immediately the speech—the most extraordinary thing he had ever heard in his life—but to ascertain who had loaded and aimed the gun, which the Senator from North Carolina had discharged. He inquired of the latter, through the Vice-President, whether he was directly or indirectly authorized to say that it was the President's wish to arrange the Oregon controversy on the basis of the 49th degree. Haywood gave an evasive answer, but Hannegan would not allow himself to be so easily put off. Vigorously supported by Allen he beset Haywood sharply on all sides, and, although the required explicit answer was refused to the end, the Senate saw very clearly the real state of affairs. Haywood's evasions were, for the rest, only a game necessitated by parliamentary etiquette, and which, moreover, secured a decorous covering for the President. It was to be understood that he had served Polk as a mouth piece, but the weapon thus put into the hands of the adversary was to be deprived of its edge as far as possible. Hannegan wielded it with all the energy of unbridled wrath, but his blows were productive of nothing beyond pain and insult. He drew no blood, which would have flowed in abundance if Haywood had admitted that he had spoken with the President's knowledge and consent.[1] If, said Hannegan, the views of the President have been rightly reported by the Sen-

[1] Benton writes: "He (Benton) knew that Mr. Haywood spoke with a knowledge of the President's sentiments, and according to his wishes, and to prepare the country for a treaty upon 49°. He knew this, because he was in consultation with the President, and was to speak for the same purpose, and was urged by him to speak immediately in consequence of the attempt to crush Mr. Haywood—the first of his friends who had given any intimation of his views." Thirty Years' View, II., pp. 666, 667.

ator, which I deny, he would be a dishonorable man and his infamy would be so great that it could never be atoned for or forgiven.[1]

The American people has properly refused to confirm this judgment. Polk's willingness to agree with England on the 49th degree was not infamous, but perfectly in harmony with the true interests of the country. But the worse than gross sophisms by which Haywood tried to harmonize this resolution with the former declarations of the President were contemptible. Whatever field the Baltimore platform and the inaugural address might offer to the arts of interpretation of a pettifogger in whose vocabulary the word truthfulness was wanting, Buchanan's annual message and dispatches said in express words, that England had no claim whatever to any portion of the contested territory, and that, in the President's opinion, the United States ought to insist on their full rights. Either Polk had honestly changed his opinion, or he had purposely deceived the people—there was no third possibility.

[1] "But for the President, I deny the intentions which the Senator from North Carolina attributes to him—intentions which, if really entertained by him, would make him an infamous man—aye, an infamous man. He (Mr. Haywood) told the Senate yesterday—unless I grossly misunderstood him, along with several friends around me—'that the President had occasionally stickings-in, parenthetically, to gratify—what?—the ultraisms of the country and of party; whilst he reposed in the White House with no intentions of carrying out these parenthetical stickings-in.' In plain words, he represents the President as parenthetically sticking in a few hollow and false words to cajole the 'ultraisms of the country.' What is this, need I ask, but charging upon the President conduct the most vile and infamous. If this allegation be true, these intentions of the President must sooner or later come to light, and when brought to light, what must follow but irretrievable disgrace? So long as one human eye remains, to linger on the page of history, the story of his abasement will be read, sending him and his name together to an infamy so profound, a damnation so deep, that the hand of resurrection will never be able to drag him forth." Congr. Globe, 29th Congr., 1st Sess., p. 460.

Haywood's speech convinced even the most timid that the crisis had been safely passed. When Calhoun, on the 16th of March, developed his views in a longer speech, he rightly emphasized the fact that the notice of the convention of 1818–1827 was now an altogether different question, from what it was at the opening of the session.[1] It had now been proved beyond a doubt that both peoples desired at all events a friendly settlement of the differences, and they, therefore, needed only to enquire whether such a result would be furthered or embarrassed by the notice. Webster fully concurred with him[2] and also maintained the correctness of Calhoun's further assertion, that the people, with ever increasing unanimity was beginning to look upon the 49th degree as the best basis of a compromise.[3] Nevertheless, they went to work with great caution.

Clayton had moved to request the President to communicate the correspondence with England, that had not yet come to the knowledge of the Congress. Allen's zeal in opposing this motion awakened some mistrust. The request appeared so natural that it was thought, that this opposition on the part of the chairman of the Committee on Foreign Affairs could be explained only on the supposition, that the President was unwilling to give any information on the present state of the Oregon question. From this Webster inferred that the negotiations must have been again resumed, or that, at least, there was a definite prospect of their renewal,[4] and he therefore called upon Clayton to have patience for a time, but gave it as his own opinion that the Senate could come to no conclusion

[1] Calh.'s Works, IV., pp. 259, 266.
[2] Webster's Works, V., p. 72.
[3] Deb. of Congr., XV., p. 471.
[4] Webster's Works, V., pp. 70, 75.

about the notice before it had been allowed to inspect the correspondence demanded.

Endless were the discussions on this side and on that, without furthering the matter at all, and, on the 16th of April, they finally passed the resolutions [1] without having received any information as to whether anything had been done in the matter by the governments on either side in the mean time. The resolutions, however, were so expressed, that even the most timid could take no exception to them. The somewhat long-winded preamble of the resolution closed with the statement that it was intended that the attentions of the governments should be more expressly directed by this resolution to a speedy and amicable settlement of the controversy. Accordingly, the notification was not positively decided upon, but they contented themselves with authorizing the President, "in his discretion," to give notice of the convention of 1818–1827.[2]

The majority of the House of Representatives could not particularly relish this mild lemonade, since it was only with very wry faces that they had consented to mingle water with the wine, which had been originally offered them by the Committee on Foreign Affairs. But it was so certain that little could be obtained from the Senate, that the House—apart from an insignificant change of style—contented itself with adding to the word "author-

[1] The third reading was passed by a vote of 40 to 13. Congr. Globe, 29th Congr., 1st Sess., p. 83. Among the 40 were 22 Whigs, and only two Whigs voted with the minority.

[2] Allen said: "We decline the responsibility of giving the notice ourselves; we decline the responsibility, we evade the danger, we say to the President, we leave the whole matter with you, although the President in his message, referred the whole matter to us." Ibid. p. 681.

ized" the words "and requested," [1] not so much to assure the giving of the notice, as to let Congress in to a share of the responsibility. The Senate, however, insisted upon its own wording, and a committee of conference had to be appointed to bring about an understanding. The committee retained, in all essentials, the form chosen by the Senate, and satisfied the House by a few unimportant changes of words and punctuation marks. The House gave way and the President noticed the convention in accordance with the resolutions approved on the 27th of April.[2] The English press paid the liveliest recognition to the moderation of the Senate,[3] and on both sides the agitation was fully allayed. The victory of the moderates was so complete, that it was now possible to look forward with composure to the definite solution of a problem which had hitherto seemed almost insoluble. It was seen that the essential conditions of the compromise were as good as established in fact. Just how it was to be effected was the only question left. Public interest was, indeed, intently fixed on this question, but chiefly on account of the effect it might have on party relations. Polk's reputation as a statesman—if he ever had any—and as a man of character, had suffered severely in wide circles. The question now was, whether he could save his reputation as a politician. If he should succeed in extricating himself from the wretched business with only slight injuries to

[1] Ibid., p. 691.

[2] Sen. Doc., 29th Congr. 1st Congr., 1st Sess., Vol. IX., No. 489, p. 16.

[3] The London *Times* wrote on May 8th: "The form in which the resolution has been ultimately adopted by the Senate of the United States is extremely dignified and becoming, * * * there is not an expression in the preamble with which we do not cordially concur—and it forms a striking contrast to the peremptory and unqualified expressions used by Mr. Polk in his official communications."

his party, and to himself as its official head, he would accomplish all that the circumstances allowed.

Douglas is said to have stated later, that Polk's object was to hurry the people from one agitation to another,[1] not only in order to divert thoughts, interests and passions into another channel, but also with the hope of being able to offer a rich compensation for the sacrifices which must be made in the northwest. The whole history of the Mexican question, as revealed to us in the documents, proves this assertion to be wholly unfounded. On the other hand, it is quite true that, as a matter of fact, the attention of the people was diverted from the Oregon question by the Mexican war, and also, that during the entire period in which the Oregon question almost monopolized public attention, the first place in the President's actions and thoughts was filled by a burning desire to win for the Union new and unlimited domains. A month before the announcement in the annual message, that the President regarded a compromise with England as impossible, and had asserted the claim of the United States "to all Oregon," there had been sent out into the unexplored wilderness of the west secret and momentous orders looking to the realization of this desire.

In May, 1845, Captain John C. Fremont had entered upon his third great scientific expedition to the far west. When he drew near the settled parts of upper California, he betook himself alone (February, 1846,) to Monterey in order to obtain permission to winter with his men

[1] Cutts, [Treatise upon constitutional and party questions * * * as received by * * * S. A. Douglas, p. 64,] relates, that Douglas told him: "Polk, to avoid the ruin of the Democratic party—in consequence of the abandonment of the 'clear and incontestable' right to 'all Oregon'—precipitated the Mexican war, thus avoiding and distracting attention."

in the valley of the San Joaquin. Permission was at first granted him, but it was soon withdrawn, "under the pretext," as Benton says,[1] that he aimed at stirring up agitation among the American settlers. Fremont at the time had no such views, but it was natural that the Mexican government, after its former experience, should feel this apprehension. According to the testimony of Larkin, the American consul at Monterey, the American settlers shared this view, and from the way in which he expressed himself on the subject, it is clear that he felt he was conveying no displeasing news to his government.[2] The Mexican commander Castro took dispositions to expel the suspicious Americans forcibly from the country.[3] Fre-

[1] Thirty Years' View, II., p. 688.

[2] "The arrival of Capt. Fremont has revived the excitement in California respecting the emigration, and the fears of the Californians losing their country. The undersigned believes that if a new flag was respectfully planted, it would receive much of the good will of the wealth and respectability of the country. Those who live by office, and the absence of law, would faintly struggle against a change. Many natives and foreigners of wealth and pursuits, are already calculating on the hopes, fears, and expectations from the apparent coming change now before them from the great influx of strangers." Th. O. Larkin to Mr. Buchanan, April 2d, 1846. Niles' Reg., LXXI., p. 190.

[3] Hittell, A History of the City of San Francisco, p. 100, attributes all the blame for Castro's unfriendly proceedings to Fremont. His "folly and insolence" were the cause of the miscarriage of the designs of Larkin, who had been working skillfully and successfully for many years to make the Californians friendly to the United States. Larkin himself writes to Buchanan, Jan. 14, 1847: "It has been my object for some years to bring the Californians to look on our countrymen as their best friends. I am satisfied very many of them were of that way of thinking, and more were becoming so. General Castro, from the year 1842 to 1846, made every demonstration in our favor, and opened plans for future operations, granting passports to all the Americans whom I presented to him. At the same time he made some foolish proclamations, supposing they would only be believed in Mexico."

mont, warned by Larkin, took up a strong defensive position on a mountain with his small and dauntless band, and there, hoisting the American flag in ostentatious challenge, waited four days for an attack.[1] His daring imposed upon the Mexicans, and on the 10th of March he marched away unmolested in the direction of Oregon. There at the great Tlamath Sea,[2] he received on the 9th of May, an unexpected visit from Lieutenant Gillespie. This daring officer had been warned in California that he would, in all likelihood, leave his scalp in the hands of the Indians, and he was obliged himself to avow that the divinities of chance would have to be propitious to him in a degree bordering on the marvelous, to enable him to find his companion in arms in the pathless, limitless wilderness. Nevertheless, he determined "at all hazards" to make the attempt in order to have the pleasure of presenting to Fremont, together with some family letters, a letter of introduction from Buchanan. The lines of the Secretary of State contained nothing but a formal introduction, and Fremont affirmed afterwards, before a committee of the Senate that they were addressed to him in his private character, and not as an officer of the army.[3]

Afterwards, Benton, Fremont's father-in-law, in a long letter addressed to the President, intended for publication, and written upon the "responsibilities of an American senator," came forward as a voluntary witness against the "foul imputation" that the government and Fremont had aimed at the revolutionizing of a province of a friendly power.[4] It was the snow, the Indians, and the hostile

[1] The entire correspondence relative to this affair is given in Niles' Reg., LXXI., pp. 187–190.

[2] In the later maps it is always called Klamath.

[3] Senate Doc., 30th Congr., 1st Sess., Reports, No. 75, p. 12.

[4] Niles' Reg., LXXI., p. 173.

designs of General Castro that had forced the valiant captain to overturn the Mexican government in California, in order to preserve himself and the American settlers. So, according to this portrayal of the affair, Gillespie had undertaken his perilous, almost desperate, expedition to the Tlamath Sea only to serve his colleague, with whom he was personally unacquainted, as a mail carrier for innocent family letters, and to make the acquaintance of the distinguished young explorer through James Buchanan. This would make Gillespie a very proper hero for a Cooper's novel, but, in that case, he would have forfeited the right which he had actually won of seeing his name inscribed on the page of his country's history. In his Thirty Years' View, Benton himself represents the matter in an essentially different light, and the official statements of the two officers, before a committee of the Senate, show us, with perfect clearness, the true character of these events, although they do not contain matter for such a case against the government as a court of justice would hold sufficient.

On the 3rd of November, 1845, Gillespie had been sent to California with "orders from the President and Secretary of the Navy, with instructions to watch over the interests of the United States in California, and to counteract the influence of any foreign or European agents who might be in that country with objects prejudicial to the United States."[1] He was, therefore, not in California as a private citizen, who was at liberty to undertake such a rash expedition to gratify his love of adventure, but he

[1] Sen. Doc., 30th Congr., 1st Sess., Reports No. 75, p. 30. Chief among these projects was the plan of the priest Macnamara for the wholesale colonization of California with Irish, in order to secure the country thereby for the Catholic religion, and against the United States. His correspondence with the Mexican government is also printed in this report. See also Congr. Globe, 30th Congr., 1st Sess., pp. 560, 561.

was a secret government agent intrusted with a serious mission. He was to deliver a dispatch to the consul, Larkin, which he "destroyed before entering the port of Vera Cruz, having committed it to memory." He traveled on Mexican soil disguised as a merchant, and after he had discharged his first commission, and, to his extreme annoyance, had been delayed a month longer than he had expected, he followed Fremont's trail into the wilderness, his reason for so doing being that he "was directed to confer with, and make known to him, his (my) instructions." "It was desirable we should act in concert, and great vigilance and activity were expected of both." "These communications," says Fremont in his official statement, "and the dangers of my position * * * induced me * * * to turn back to the Valley of the Sacramento." And in a private letter to his father-in-law, of the 25th of July, 1846, in which he, it is true, refers to those dangers, he brings into still sharper prominence the fact, that the most essential motive for his return had been the wishes of the government imparted to him by Gillespie.[1] And Benton, by his own admission, had already received this letter, when he addressed to the President the letter of the ninth of December, 1846, above mentioned. Further than this, moreover, the Senator was acquainted from the beginning with the purposes of the administration, for Fremont says in his testimony, that he was informed of the object of Gillespie's mission by Benton's letter, delivered to him by Gillespie — the weightiest contents of which letter, it is true, had again to be read between the lines. Whether, however, as Fremont maintained, the directions of the

[1] "I judged it inexpedient to pursue our journey further in this direction, and determined to retrace my steps and carry out the views of the government, by reaching the frontier on the line of the Colorado river." Niles' Reg., LXXI., p. 191.

government only required them to inform themselves of the disposition of the population of California, to make it well disposed to the United States, and to frustrate the plans of other powers, we shall be able to judge with tolerable certainty from later events, although Polk and his ministers were prudent enough not to entrust to paper a syllable of those instructions of Gillespie, Larkin, and Fremont, nay, though they were probably careful so to frame their verbal instructions, that they could coolly disavow their agents in case of a failure of the undertaking.

There was one thing, however, that Polk and his ministers could not do: however cunningly their measures and the actual events were embroiled in the President's messages, in order to establish a causal connection, which would show their conduct in a favorable light, the facts relative to the decisive measures could not be put out of the way, and these facts made a sharp cut through the entire length and breadth of the fine web of their sophistry. Gillespie received his instructions eight days before Slidell was commissioned to bear to Mexico the misshapen olive branch, which to the eyes of the Mexicans had much the look of a highwayman's club. Next after the order of the 13th of January, to Taylor, it is the weightiest fact for the proper judgment of Polk's assertion that the refusal of the Mexican government to receive Slidell had been one of the main reasons, or rather the decisive reason, for his vigorous measures.[1] The fact that Slidell's mis-

[1] That this was the cause of the order of the 13th of January is not directly stated, but it is allowed to be understood as plainly as is possible without saying so in express terms. It is, therefore, if not justifiable, at least comprehensible, that Dixon, of Connecticut, in the heat of debate cried out: "Yet he [Polk] tells [!] us that the army had not marched till after the rejection." The question: "Did he intend to deceive us?" was justified even without this unfair exaggeration. Congr. Globe, 30th Congr., 1st Sess., p. 228.

sion had definitely failed long before the meeting of Gillespie and Fremont at the Tlamath Sea, is of no significance whatever for the causal connection of events in California.

On the first of March, Slidell had informed Castillo y Lanzas, the new Minister of Foreign Affairs, that, in obedience to the instructions which had now arrived, he would have been obliged to demand his passports, if a change of government had not taken place in the interim. This circumstance alone made it yet momentarily possible for the President to desist from a step which would "inevitably bring on a war." The dignity and interests of the United States could, however, no longer suffer that Mexico be permitted to persist in her present attitude of quasi hostility. He must, therefore, insist on a speedy defining of the position of the President *ad interim* on the question of his recognition as ambassador of the United States.[1]

In his contemporaneous dispatches to Buchanan, Slidell expressed himself more confidently than ever, but nevertheless remarked, to secure himself, that the course of Mexican statesmen could not be foreseen.[2] However true this might have been in general, it was not verified in this instance, although Slidell's expectations, indeed, proved

[1] Exec. Doc., 30th Congr., 1st Sess., Vol. VII., No. 60, p. 63.

[2] "My note will be presented at the most propitious moment that could have been selected. All attempts to effect a loan have completely failed. The suspicion of an intention to introduce a foreign monarch, has tended very much to abate the clamor against the United States, and many now begin to look in that direction for support and protection against European interference.

"My letters from Mexico speak confidently of my recognition; but there is no safety in reasoning from probabilities or analogies as to the course of public men in this country. * * * If, however, I should now be received, I think that my prospect of successful negotiation will be better than if no obstacles had been opposed to my recognition in the first instance." Ibid., pp. 62, 63.

wholly unfounded. The answer of the Mexican government, dated the 12th of March, not only corresponded perfectly to what was to have been expected from a usurper who had used the pusillanimous attitude of the government towards the foreign oppressor, for its overthrow, but it was, furthermore, the only answer which could be given by the government of a people that prized its honor as its highest treasure. Castillo y Lanzas based Parede's refusal on the arguments of Peña y Peña, stated with greater fullness and precision. At the same time, he affirmed that the threatening movements of the army and fleet of the Union would constitute in themselves a sufficient reason for non-compliance with Slidell's request. Thus the "hostile demonstrations" had not, as Slidell had expected, made Mexico more pliant, but had simply precluded every possibility of a peaceful settlement. It had been folly to expect that Mexico would be more ready to grasp the right hand extended for propitiation and concord, if the left hand was at the same time reaching for her throat. She would have had to be much weaker than she actually was, to yield to such a pressure without prejudice to her honor, and her unbounded pride made her think her powers of resistance much greater than they were.

On the same day on which Castillo y Lanzas wrote his reply, Buchanan sent another dispatch to Slidell, in which he again expressly directed him to try his fortunes with the new government. The reason assigned for this decision of the President was, that otherwise Congress might perhaps not be disposed to give its assent to the "energetic measures" which would be at once proposed to it, if he (Slidell) should be obliged to return without having effected anything.[1] Polk need not have let himself be

[1] Exec. Doc., 30th Congr., 1st Sess., Vol. VII., No. 60, p. 65.

troubled by this fear, for the measures he had taken on his own responsibility were energetic enough to secure the realization of his wishes.

On the day before this dispatch was sent, the last soldiers of Taylor had broken up camp at Corpus Christi. A small division went by water to Brazos Santiago, in order to transport to that place a Park siege gun,[1] the destination of which it is not easy to conjecture, since the only object in view was the protection of threatened Texas. The greater part[2] of the little army, however, marched through the inhospitable territory without any noteworthy adventures. After the 16th of March, it fell in, from time to time, with small bands of armed Mexicans, which gave way at its approach. An absurdly bombastic proclamation of General Mejia thundered death and destruction against the Americans. According to Taylor's own admission, the passage of the Arroyo Colorado could have been defended against them with a small force. A division of regular cavalry was, in fact, awaiting him at this point, but, after a pompous and challenging protest, it also fell back without attempting the least resistance. None the less Taylor's dispatches always speak of the "enemy." It must be admitted that the population did not receive him with open arms. At the approach of his army, the inhabitants of Point Isabel shook the dust from their feet and hurled fire-brands into their own dwellings. Taylor saw in this "a decided evidence of hostility"[3] and was so angered by it that he refused before reaching Mat-

[1] Ibid., p. 118.

[2] According to Ripley, The War with Mexico, I., p. 96, he arrived before Matamoras with 3,000 men.

[3] Exec. Doc., 30th Cong., 1st Sess., Vol. VII., No. 60, p. 130. In a communication of the 22nd of April, he even says: "I viewed this as a direct act of war." Ibid., p. 146.

amoras to receive a deputation, which brought him from the "prefect of the northern district of Tamaulipas" a formal protest against his further advance. Three days after, on the 28th of March, he arrived at the designated point. The same day an interview took place on the right bank of the Rio Grande between General Worth and the Mexican General Vega. Taylor had taken the first steps towards this, in order to declare the object of his advance, and to afford an opportunity to establish friendly relations if practicable.[1] This laudable object was not attained. Vega pronounced the passage of the boundary of Tamaulipas a gross act of war, but, nevertheless, replied in the affirmative to the question whether the two powers were still at peace. When, however, he unconditionally refused to allow a meeting of the American consul with Worth, the latter declared, that, by this act, Mexico placed herself on a footing of war,[2] and, furthermore, gave formal notice that the passage of the river by Mexican troops "in hostile array" would be met with force. Here negotiations ended. Both parties had done their best to complicate still further a matter already sufficiently involved. The two officers had spoken as though neither of them had the faintest suspicion that "war" is a definite conception of international law, and that the Constitutions of their respective states gave Congress alone the right to utter this fearful word to another power. And in this they only followed the example of their superiors. The day after the interview Taylor reported that the attitude of the Mexicans was, indeed, "decidedly hostile," but that they had not as yet committed any "act of hostility." Mejia cried: To arms! Conscious of our superiority we burn

[1] Ibid., p. 133.

[2] "A refusal * * * is regarded as a belligerent act."

to meet the foe upon the field of battle. We will carry our victorious eagles to the bank of the Sabine. And a few days later he says, almost in the same breath: You have actually begun war by the invasion of our territory, but we are still in a state of the profoundest peace. And, in Taylor's eyes, the attempt to burn Point Isabel is at once "an act of hostility," "not an act of hostility," and a direct act of war; and the Mexicans who offer no resistance, are for him the "enemy" with whom he is desirous of re-establishing friendly relations. So far nothing was clear but the three facts, that the Mexicans had abandoned to the Americans without a struggle the territory as far as the Rio Grande, that is to say, up to the boundary claimed by Texas; that Taylor had encamped with his army, directly opposite the most important Mexican town on the river, and that the Mexicans had been forbidden to set foot on the left bank, although Taylor had been ordered not to disturb their military posts on this side.

Taylor was greater in the bringing about of events, than in writing reports, which should always be quite consistent with each other, and always fit to a nicety into Polk's superfine theories of the nature and historical development of the Mexican question. In order to repress in the breasts of the Mexicans any possible inclination, to attack him, he turned his guns upon the public square of Matamoras.[1] Not alone the Mexicans, who had thought themselves safe in making ever new demands on the angelic patience and forbearance of the United States,

[1] He writes, April 6th, to the adjutant general: "On our side a battery for four 18-pounders will be completed and the guns placed in battery to-day. These guns bear directly upon the public square of Matamoras, and within good range for demolishing the town. Their object cannot be mistaken by the enemy, and will, I think effectually restrain him from any enterprise upon our side of the river." Ibid., p. 133.

were scandalized by this. Even citizens of the Union allowed themselves to be so blinded by the spirit of party, as to think that the sincere and earnest desire of the Administration to preserve peace was not very happily demonstrated by this action. In Clayton's opinion, Taylor had pointed a pistol at the breast of the Mexicans.[1] The peremptory summons (April 12th,) of Ampudia, who had in the mean time, taken the chief command at Matamoras, to break up the camp within twenty-four hours and fall back to the Nueces, would, it is true, have been issued in any event. Taylor naturally could not comply with this request, since it was not his duty to decide the question of right between the United States and Mexico, but simply to execute the orders of the President. But who now gave him the right to pass from hostile demonstrations of the most highly irritating character to hostile acts of direct decisive effect, merely because Ampudia declared that a refusal to comply with his request must inevitably lead to a decision by arms, and that Mexico, in that case, would "accept the war to which, with so much injustice on your part, you provoke us?"[2] The order of the 13th of January had expressly instructed Taylor not, without further orders, to attempt to maintain by force of arms an equal right to free navigation of the Rio Grande, which Mexico would probably resist. And now, without having received additional instructions, he deduced from Ampu-

[1] "Why was it necessary to cross the desert, and take up a position immediately in front of the friendly town of Matamoras? Why was it necessary to take up that position, with the batteries pointed against the town at a distance of not more than five hundred yards from its environs? It was an aggressive act; an act which the civilized world will so designate. It was as much an act of aggression on our part as is a man's pointing a pistol at another's breast." Deb. of Congr., XV., p. 494.

[2] Exec. Doc., 30th Congr., 1st Sess., Vol. VII., No. 60, p. 140.

dia's communication the right to close the entrance of the Rio Grande. The responsibility of the Administration for the Mexican war is not diminished by this arbitrary action of the general, for it never disavowed his course, nor inflicted on him the slightest censure on this account, but awarded him nothing but thanks and recognition for all that he had done during this period. Taylor, however, is by no means, as is generally believed in the United States, wholly free from blame, that the United States, in audacious disregard of the Constitution, were, without the concurrence of Congress, plunged into an offensive war; for the closing of the Rio Grande was the beginning of actual hostilities. Taylor himself avows this with a distinctness that must close the mouths of his blindest admirers and most convinced advocates. Ampudia rightly pointed out that the proclamation of a blockade is an act of international law, which must be accomplished in the forms of international law, and does not rest with the good pleasure of every general. Still more important, however, than the question of law were the purposes and actual consequences of the step. Taylor wished to cut off "all supplies" from Matamoras, his reason being that, "it will, at any rate, compel the Mexicans either to withdraw their army from Matamoras, where it cannot be subsisted, or to assume the offensive on this side of the river."[1] If they were unwilling to do either, he was prepared to open the river again, if they would consent to conclude an armistice between their respective states until the settlement of the controversy.[2] What was meant by that it is hard to understand, although he declared them responsible for "this state of quasi war." Often as they had declared

[1] Exec. Doc., 30th Congr., 1st Sess., Vol. VII., No. 60, p. 143
[2] Ibid., p. 146.

that his march to the Rio Grande was war, they had as yet, on his own testimony, committed no hostile act. The conclusion of an armistice would, therefore, on their part, have been nothing but a promise to allow the *status quo* to continue, and Taylor would certainly not have raised the blockade for this, since he had established it only because he could not admit that "this state of quasi war was to be interpreted to their advantage only." The proposition was, therefore, utterly meaningless, unless it signified that the Mexican authorities were in no wise to object to the march into Tamaulipas, the occupation of the left bank of the stream, and all he might yet choose to do there, till the governments on either side had come to an understanding in one way or another. Ampudia could not accept such conditions without the express authorization of his government, wholly aside from the fact that Mexico would thus, as a matter of course, have definitely abandoned the disputed territory. Ampudia had, therefore, to choose between the other two alternatives to which Taylor had forced him, and had meant to force him. This, however, was a choice that left no real choice to a man of honor and a dauntless soldier. To have allowed himself to be forced to evacuate Matamoras by the illegal closing of the mouth of the river, would have been pitiable cowardice, from which the only conclusion that Taylor and his superiors could have drawn would have been that they might with impunity offer Mexico any extreme of insult.

Arista, who on the 24th of April took the chief command in Matamoras, immediately notified Taylor that he considered that hostilities had begun, and on the next day the dies of war rolled from the box in which they had so long been shaken. Taylor sent out a troop of dragoons to ascertain whether the enemy had crossed the stream above

his camp. Abandoned by their guide, the men dispersed within the enclosure of an apparently deserted farm yard to seek some one from whom they could procure information. Suddenly they saw the egress blockaded by a superior force of Mexicans, and Captain Thornton, who commanded the dragoons, at once gave the order for an attack. No stress is to be laid upon this fact, as is done by Jay,[1] for it is certain that the Mexicans had laid an ambush for the dragoons. If the latter had not made the vain attempt to cut their way through, perhaps no blood would have been spilled on this day. In the next few days, however, there would have inevitably been an encounter, and that, too, on this side of the river, for Taylor could afford to wait. The question on whose shoulders rests the responsibility for the war, does not depend for its decision on who first gave the order, fire! and what piece of ground drank the first blood, but on who made it necessary that the order, fire! should be given, and that blood should be spilled. Taylor closed his brief report of this outpost skirmish with the declaration, that "hostilities may now be considered as commenced," and he announced that he had made a requisition on the governors of Texas and Louisiana for four regiments, about 5,000 men in all, "which will be required to prosecute the war with energy, and carry it, as it should be, into the enemy's country."

[1] Review of the Mexican War, p. 141.

CHAPTER IX.

"The War of Polk, the Mendacious."

Taylor's dispatch of the 26th of April reached Washington on the 9th of May. It being Saturday, the dispatch could not be officially brought to the knowledge of Congress before the 11th of May. The message in which Polk did this referred to the exposition of the relations between the United States and Mexico, given in the annual message, and then briefly recounted the subsequent history of those relations. The President uttered no direct falsehood, but he passed over in silence half of what it was essential to know in order to form a clear conception of the actual course of events, and what he did say he said in such a form and introduced in such a connection that all the essential facts appeared reversed. According to this recital, if he was liable to any reproach, it was only that of having so long clung to the policy of magnanimous patience and forbearance, which the United States to their own detriment had always used towards Mexico. Mexico had taken this for weakness, and after having, in violation of her plighted word, sent back unheard the messenger of peace and friendship from the United States, she had now made the measure of her guilt full, since she had "at last invaded our territory, and shed the blood of our fellow citizens on our own soil." It did not appear from the message that the order of the 13th of January formed any link in the chain of causes that led to these events. It was only long after Mexico's flagitious

attack had been duly set forth that mention was made of that order, in a way intended to show how entirely justifiable it had been to take measures for the defense of this "exposed frontier" as early as the summer. Everything that could possibly be adduced for the assertion that the Rio Grande was the boundary, was enumerated and placed in the strongest and most advantageous light, but there was not a syllable to hint that the resolutions of annexation had left the question open, and not a word betrayed the fact that the encounter had resulted solely because Mexico did not recognize the Rio Grande as the boundary of Texas.[1] From the tone of the message one would have thought that Mexico, without any further special occasion, had acted in conformity with her original declaration that she would regard the annexation of Texas as a *casus belli*, if not that she had sent her troops across the river to reconquer the whole of Texas. Mexico, it is said, "in official proclamations and manifestoes has repeatedly threatened to make war upon us for the purpose of reconquering Texas. In the meantime we have tried every effort of reconciliation. The cup of forbearance had been ex-

[1] The Tyler-Calhoun treaty of annexation had not contained a word about the boundaries. The Senate, therefore, asked for information as to what this "Texas" was which was to be annexed. Hereupon Tyler sent a map and a memorial of the typographical bureau, which marked the Rio Grande as the western boundary. This was, accordingly, the most essential point to which the opposition took exception. Benton said: "The treaty, in all that relates to the boundary of the Rio Grande, is an act of unparalleled outrage on Mexico." (Thirty Years' View, II., p. 602.) And he introduced the following resolution: "*Resolved*, That the incorporation of the left bank of the Rio del Norte into the American Union, by virtue of a treaty with Texas, comprehending, as the said incorporation would do, a part of the Mexican departments of New Mexico, Chihuahua, Coahuila, and Tamaulipas, would be an act of direct aggression on Mexico, for all the consequences of which the United States would stand responsible."

hausted even before the recent information from the frontier of the Del Norte. But now, after reiterated menaces, Mexico has passed the boundary of the United States, has invaded our territory, and shed American blood upon the American soil. She has proclaimed that hostilities have commenced, and that the two nations are now at war.

"As war exists, and notwithstanding all our efforts to avoid it,[1] exists by the act of Mexico herself, we are called upon by every consideration of duty and patriotism to vindicate with decision the honor, the rights, and the interests of the country."

The attitude of Congress towards the message was decided before its communication. As early as Sunday, the friends of the administration had determined to adopt its standpoint without reserve. The line of tactics to be employed followed as a matter of course, since this position could not be successfully defended against even the most superficial criticism. The contest was to be carried on not by arguments, but by votes; the President's policy —the creation of accomplished facts—had to be pursued still further, till it should have become as impossible to retrace as to stay their steps.

After the reading of the message in the House, Win-

[1] In a proclamation "to the Mexican nation," May 11th, 1847, General Scott makes the following admission: "Your new government [Paredes] disregarded your national interests, as well as those of continental America, and yielded, moreover, to foreign influences the most opposed to those interests—the most fatal to the future of Mexican liberty, and of that republican system which the United States hold it a duty to preserve and to protect. Duty, honor, and dignity placed us under the necessity of not losing a season of which the monarchial party was fast taking advantage. As not a moment was to be lost, we acted with a promptness and decision suited to the urgency of the case, in order to avoid a complication of interests which might render our relations more difficult and involved." Exec. Doc., 30th Congr., 1st Sess., Vol. VII., No. 60, p. 972.

throp moved the reading of the official correspondence which accompanied it as vouchers.[1] This motion was rejected,[2] and the House, as "committee of the whole," at once entered upon the debate without having any data to act upon other than the assertions of the message. The committee on military affairs had a bill ready, and the "committee of the whole" was not less agile and decided; it reported the bill back to the House as speedily as if the most indifferent matter in the world were involved, or, as if there was the greatest danger in the slightest delay. The shameless spirit of party hurried the chariot of legislation on with loose rein over stocks and stones, and with every forward step the whip cracked louder and more triumphantly. Now, and at every further stage of progress, the door was closed on all debate by the previous question; without allowing the least possible opportunity for the formation of an independent judgment, it was resolved, by a vote of 123 to 67, to repeat in the preamble of the bill the President's statement that the war had been brought on by the "act of Mexico;[3] and then, by a vote of 174 to 14, the bill was passed, authorizing the President to call 50,000 volunteers to arms, and granting ten million dollars for the war.

The matter could not be carried through the Senate in so reckless and violent a manner; but, although forms were somewhat better preserved, the final action of the latter body did not differ from that of the House. When John Davis moved the reading of the documents accom-

[1] Congr. Globe, 29th Congr., 1st Sess., p. 791.

[2] The voting list is not given, but J. S. Pendleton, of Virginia, says in a later speech: "By a strict party vote, this motion was rejected." Ibid., 29th Congr., 2d Sess., App. p. 412.

[3] Linn Boyd, of Kentucky, had moved this amendment to the bill of the committee on military affairs, introduced by Haralson.

panying the message, Speight, of Mississippi, begged him to desist, because the reading would occupy "two or three hours," and it was important that the documents should be printed as soon as practicable. Davis attached no importance to this request, evidently because he took it for granted that the Senate would not form its decision until the printed documents lay before it. Calhoun did not appear so firmly convinced that this case would be dealt with according to ordinary rules. With great earnestness and impressive solemnity he besought the Senate to examine the question with all the thoroughness and conscientiousness its high importance demanded. It became at once evident that this admonition was by no means superfluous. Allen replied in the irritating, dictatorial tone into which he fell so readily, that the time for the deliberation demanded by the Senator from North Carolina must be measured by the crisis in which they found themselves; they were at war, and therefore the only consideration in place was, how the country was to be secured against an invasion. This was not an argument, for it was the very question that had to be decided, and which could not be decided without the most conscientious examination. We are not, and we cannot be, at war with Mexico within the meaning of the constitution, replied Calhoun, for war is a state into which, according to the constitution, the country can be brought only through Congress. Hostilities may have occurred, and may yet occur, on the frontier, but hostilities do not necessarily constitute war.

Cass repelled these assertions as an absurdity, and thought he demonstrated their unreasonableness by the simple allegation of the fact that many wars had been waged in Europe without a formal declaration. Had it, however, wholly escaped his memory how many instances

the history of the United States could already supply of acts of hostility which had not constituted war, nor even led to a war? Archer recalled the case of the American Steamboat Caroline, which had been fallen upon, within the jurisdiction of the Union, by English troops, on the night of the 31st of December, 1837, and, after its crew had been cut down, had been sent burning down Niagara, because it had carried men and provisions to the Canadian insurgents. Morehead, of Kentucky, reminded them of the lengthy complications with France, which had led on both sides to hostile measures of various kinds, and had, yet, finally received a peaceful settlement. A still more striking example could be adduced from the time of Jefferson's presidency. On the 22nd of June, 1807, the English ship of war, Leopard, fired several broadsides into the American ship of war, Chesapeake, killed a number of her men, and wounded her captain, and all this, in the midst of peace and solely to compel the delivery of a few deserters from the English fleet. A more monstrous and insulting act of wanton violence is hardly conceivable, and yet no war rose out of it. If hostile acts always, and of themselves, constituted war, then the question of war and peace would virtually lie, not only in the hands of the President, but in those of every officer who gave orders on the frontier or commanded an American ship of war. If the Constitution did not intend to put it in the power of all these people, at any moment, to render nugatory the provision according to which Congress alone was authorized to declare war, then, in every case in which there had been actual hostilities, it necessarily rested with Congress alone to decide whether such hostile acts constituted, or rather should constitute, war. Even an invasion was, therefore, by no means, in and of itself, war, although it was the right and duty of the President to repel invasions,

without waiting for the permission of Congress, and although he, accordingly, had to decide independently and finally, whether there was an invasion or not. Polk's declaration, "war exists," was constitutionally, not only an unwarrantable assumption of authority, but it was untrue, because impossible. But if Congress alone had the right to decide whether, in consequence of the hostilities on the Rio Grande, the Union was at war with Mexico, it was also its duty to examine closely all facts bearing on the subject, in order to come to an independent and well founded decision. If it simply pronounced the momentous word after the President, and on faith, it would virtually divest itself of its prerogative in his favor, and the Constitution gave it no such power.

And could Congress accept in good faith all the statements of the message, as truth, and as the whole truth? The very school boys laughed at the fable of the "urgent necessity" of defending Texas. But if the advance of the army was not necessary for the defense of Texas was it necessary at all? And if it was not necessary, was there any way in which it could be justified? The boundary of Maine had been in dispute more than fifty years, and what President had thought it a justifiable act, or held it his duty, to send an army into the border district and turn its guns upon the English settlements lying opposite?[1] If

[1] "If I am not mistaken, for some time, and even during Mr. Van Buren's administration, a portion of that disputed country was permitted to be occupied by British troops without opposition or resistance on our part." Al. H. Stephens, June 16, 1846, Cleveland, Al. H. Stephens, in Public and Private, p. 311.

Jefferson's conduct, in the disputes with Spain about the boundary of the Louisiana territory, was with justice held up to Polk. "Propositions for adjusting amicably the boundaries of Louisiana have not been acceded to. While, however, the right is unsettled, we have avoided changing the state of things by taking new posts or strength-

the President had not begun the war, said Clayton, his measures have, at any rate, inevitably led to war. Accordingly, he declares, "the whole conduct of the executive in this case has been utterly unjustifiable," for if the right to declare war belonged exclusively to Congress, then the President ought not, without the knowledge of Congress, and behind its back, to take steps which must inevitably result in a war.

Allen bitterly reproached Clayton that he was condemning the President unheard, and was breaking the staff of judgment over his country's cause, before he had had an opportunity to inform himself about it. In so doing, Allen only turned his own observations against Calhoun. No one asked anything more than precisely an opportunity, that is to say time, to examine, and not even the shadow of a pretext could be made good against this request, since the measures for the "defense of the country" would not thereby be at all retarded. The speakers who demanded a calm and searching examination of the constitutional and political question declared, without exception, that they would grant money and troops without delay. There was no inconsistency in this, for the main question would have to be decided long before the troops could be used. If the decision then put an end to hostilities, the President alone

ening ourselves in the disputed territories, in the hope that the other power would not by contrary conduct oblige us to meet their example, and endanger conflicts of authority the issue of which may not be easily controlled. But in this hope we have now reason to lessen our confidence. Inroads have been recently made into the territories of Orleans and the Mississippi, our citizens have been seized and their property plundered in the very parts which had been actually delivered up (!) by Spain, and this by the regular officers and soldiers of that government. I have, therefore, found it necessary at length to give orders to our troops on that frontier to be in readiness to protect our citizens, and to repel by arms any similar aggressions in the future." Message of Dec. 3, 1805. Statesm.'s Man., I., p. 178.

would be responsible for the useless expense. In whatever way the country had been placed in the situation protrayed in the message, this situation made it necessary to prepare for every contingency, and Congress, therefore, could not wait till it had assured itself that the President had correctly represented the actual state of affairs. The Senate, accordingly, decided to treat the two aspects of the question separately. On the suggestion of Benton, the message, as far as it treated of the necessity of war measures, was referred to the Committee on Military Affairs, and for the rest to the Committee on Foreign Relations.

Next morning the scene had shifted. Allen moved to drop all other business and to enter at once on the debate over the war bill of the House reported by Benton.[1] When Calhoun demanded "at least one day," in order to be able to examine the documents transmitted by the President, Allen replied that any other government would have issued marching orders an hour after the receipt of Taylor's dispatch, in order to rescue the army from its perilous position; not a moment was now to be lost, for a delay of forty-eight hours might draw after it fatal consequences. Taylor, at all events, had not shared this anxiety about the dreadful things which puissant Mexico might be expected to do, for he had announced that he would make the Mex-

[1] "The Senator (Benton), as Chairman of the Committee on Military Affairs, reported the bill to the Senate as it came from the House, with both provisions (recognizing the existence of the war, and providing means for its prosecution) in it; directly contrary to the order of the Senate, made on his own motion, to refer the part of the message relating to the recognition of the war to the Committee on Foreign Relations. To this, and the fact that a caucus had been held of the party which agreed to sustain the report, may be traced the precipitate (to use no stronger word) action of the Senate, and the recognition of the war. It emphatically made the war." Calhoun, Feb. 24, 1847. Calh.'s Works, IV., p. 379. Benton in the rôle of Saturn was no new spectacle.

ican soil the theatre of war. Furthermore, there was no necessity for the slightest loss of time. The gentlemen themselves will be responsible for all delay, said Calhoun, for we are prepared to pass the bill at once and even to grant much more, as soon as the statement that we are at war with Mexico is removed from it. Clayton moved to refer the bill to the Committee on Military Affairs, to make this change, which could be effected in a few minutes, and which would leave the bill, as a military measure, absolutely untouched. Although he promised that he and his associates would not leave their seats till the bill had been passed, his motion was rejected by a vote of 26 to 20. Benton, the Chairman of the Committee on Military Affairs, voted with the majority although he recognized as undoubtedly correct the distinction taken by Calhoun between hostilities and war, and from a proclamation of Paredes, which he read, drew the conclusion that Mexico desired the preservation of peace. However that might be, at all events Mangum's remark was just, that they did not even know that the Mexican government approved of Arista's proceedings.

But neither was there need of further arguments, nor could any arguments make an impression upon the majority, for there was no legitimate reason for the denial of the request of the minority, and the real motives could not be avowed. One thing only was still in the power of the minority: they could force the majority to show their true colors still more plainly than they had as yet done. Clayton moved to insert instead of the words, "prosecute said war to a speedy and successful termination," the words, "repel invasion." Cass, full of patriotic indignation, declared that Taylor's army might be annihilated, while the Senate was trying to prove that they were at war. Taylor and his army, however, were hardly made of

such fragile material as to incur danger of annihilation if the official designation of the operations should be altered in the manner desired by Clayton, until the documents came back from the press and the Senate could inform itself of their contents. The rejection of Clayton's motion is meaningless, except on the supposition that the majority had not only finally determined on a war with Mexico, but that they were also resolved to have the war at once proclaimed in the manner indicated in the message. If this were done, the nation, by its legal representatives, would have irrevocably taken up an attitude on the question, which would cover all guilt that might be revealed by the documents, and it could, moreover, be expected with the greatest certainty that, almost the entire minority would allow itself to be compelled to join in signing this general absolution, drawn in blank before the hearing of the confession.

The rejection of Clayton's motion by 25 to 20 votes, decided this contest which had been hopeless from the start. The opposition made one more vain attempt to bring the preamble[1] to a vote apart from the bill. By forty votes against two—Thomas Clayton and John Davis —the bill was then passed. Crittenden and Upham answered "aye, except the preamble." John M. Clayton, who together with Calhoun had fought at the head of the opposition, Mangum, and Dayton attached to their affirmative votes a formal protest against the preamble. Berrien, Evans, and Calhoun refused to vote. The latter had, at the very beginning of the debate, announced that thi would be his course, because he had not an inch of solid ground under his feet. Filled with a proud consciousness

[1] "Whereas by the act of the Republic of Mexico, a state of war exists between that government and the United States." Stat. at L., IX., p. 9.

he had declared that he did not care a doit for the unpopularity to which this resolution exposed him. The gentlemen might follow their petty party aims, if it so pleased them, he could not consent to wage war with the Constitution in order to make war upon Mexico.

If the entire opposition in both houses of Congress had had the moral courage to act like Calhoun, the 11th and 12th of May, 1846, would not be counted among the darkest and most significant days in the constitutional history of the United States. The sixteen who voted against the bill deserve, from an ethical standpoint, still greater recognition than the Carolinian, who henceforth pursues his way in even greater isolation than before. Whether, however, the rest of the opposition merit severe blame, merely because they did not act as did those sixteen, may well be called in question, since the people does not yet exist, that, as Jay desired, takes the Bible for the rule of its policy. "Our country, right or wrong," has, in such cases, always been the motto of politically vigorous people, conscious of their strength, and although on one side it incontestably grossly violates the principles of morals, we can as little deny to it from another point of view a deep moral basis. Logic, may, perhaps, take exception to this statement, but the hurly-burly of real life is little concerned with the postulates of logic. But, although we may approve or, at least, not condemn the course of the great majority of the opposition in placing before all other considerations the naked fact, that the Union was entering into a war, and in not wishing, therefore, to vote against the grant of money and troops, although they looked upon the war as unjust and brought upon them in defiance of the Constitution, we can have no reason for judging in a like manner their voting for this grant, in spite of its being introduced by a preamble

which they held to be an evident falsehood. In no case could danger to the country result from their action, for the grant of money and troops was certain whatever they did. By abstaining from voting they would at the same time have made an emphatic protest against the violation of the Constitution and against that falsehood, and they would have proclaimed in a way that could not be misunderstood, both to the people and to the enemy, that they would not allow the country to suffer for the guilt of its rulers. In this way alone could they remain true to the conviction which had brought them into this conflict of duties, and in this way alone could they, as far as it was still possible, protect the immediate and the more remote interests of the country, as they understood them. Their party interests, on the other hand, assuredly did not find their account in this line of conduct, and although we should certainly not be justified in saying that this alone determined their action, it was incontestably, for all a weighty, and for many the determining consideration. It had not been forgotten that the Federalists had committed political suicide by their attitude in the war with England, and from fear of falling into a like error and meeting with a like fate, the Whigs committed the scarcely less grave mistake of basely abandoning their own principles. They did not sufficiently respect themselves and therefore rated the people, also, too low. If, with heads proudly erect, they had ventured at the first vote to assert their principles in the manner suggested they would certainly, though perhaps amid many attacks and hard struggles, have finally forced upon the people the conviction, that it was not under compulsion and from party consideration, but voluntarily and from genuine patriotism, that they afterwards maintained the military honor and political interests of the country. As it was, their words and

their actions were continually in glaring contrast with each other, so that the bold immorality, with which the leading Democratic politicians had devised and carried to its conclusion the whole affair of the war, sometimes shows almost to advantage beside the strict pedantic morality of their inconsistent opponents.

The responsibility and the guilt of the Democrats, however, is only increased by the fact that by tactics as masterly as they were outrageously unworthy, they had forced almost the entire opposition to assist in this unexampled self-prostitution of Congress. "Thus," exclaimed Giddings, "has Congress surrendered its honor, its independence, and become the mere instrument of the executive, and made to endorse this presidential falsehood. * * * Sir, on this great and momentous subject of peace and war, involving the lives of thousands of our fellow citizens, and the welfare of two mighty nations, we were not permitted to deliberate, to speak, or to compare our views. No member was allowed to express his dissent or to state his objections to an act which is to tell upon the future destiny of civilized man. With indecent haste, with unbecoming levity, under the gag of the previous question, our nation is plunged into a bloody war for the purposes of conquest and the extension of slavery."[1] And it was with full consciousness, without the slightest excuse, with loud hurrahs and huzzas, that Congress had thus trodden under foot its dignity, its constitutional rights and duties, and the truth.[2] The Whigs always spoke of "Polk's war."

[1] Speeches, pp. 192, 193.

[2] The most disgusting thing about it all is the pious rolling of eyes. Falsehood has always been one of the chief ingredients of political cookery, but it is not necessary to overact the part so clumsily, and violate good taste so grossly, as to assume the air of a weeping altar saint while striking down a weak neighbor in order to take away his coat and empty his pockets. C. J. Ingersoll says, in a report of the House

It was true that Polk had purposely brought on the war, but both Houses of Congress had declared it superfluous to read even the documents that had been voluntarily sent them by the President, in order to form an independent judgment of the question how hostilities with Mexico had been brought on. Certainly Polk had sinned deeply against the spirit of the constitution when, behind the back of the assembled Congress, and under no necessity, he had deliberately worked to bring about an encounter on the Rio Grande in order to win by a war California and New Mexico, which he had been unable to buy; but both Houses of Congress had sanctioned his conduct without any investigation. It was certain that Polk had done by indirect and devious ways what Congress alone could rightfully do; but both Houses of Congress had given their approval. Certainly Polk's assertion that the United States and Mexico were at war was not true; but both Houses of Congress, by their confirmation, made the statement a fact. Certainly Polk had treated Congress with an insulting want of respect, and certain it was that this

Committee on Foreign Affairs, of the 24th of June, 1846: "Essentially and happily pacific as are the institutions, the interests, the local situation, and the desires of this republican Union, its development and prosperity will never be arrested or disturbed by wars of passion, conquest, or offense. * * * With great regret, and not till long after further forbearance was impracticable, the constituted authorities of the United States find force the only means of self-defense from long continued, unprovoked, aggravated, and insufferable injuries inflicted by a sister republic and neighbor nation, with whom our preference was close alliance, and against whom the sword is drawn with infinite reluctance." Reports of Comm., 29th Congr., 1st Sess., Vol. II., No. 752, p. 2. Six months later the same Ingersoll said: "Complaints of the territorial conquests from Mexico are disarmed of reproach by the undeniable facts, that Mexico, by war, constrains the United States to take by conquest what, ever since the Mexican independence, every American administration has been striving to get by purchase."

criminal playing with the spirit of the constitution would inevitably bear bitter fruit; but the two Houses of Congress had vied with each other in putting the gag into their own mouths, and in lowering themselves to mere tools of the President, in a still greater degree than he had required of them. Certainly Polk's message, with its disingenuous, involved half-truths, and its intentional reservations, was an unworthy web of deceit; but both Houses of Congress, under no compulsion whatever, and with the exercise of a most disgraceful pressure on the minority, had set the seal of their approbation upon it. The war was, indeed, originally "Polk's war," but Congress was responsible for the fact that the Union had to carry on "Polk's war;" and if the true and the official history of the origin of the war were so related to each other that, as Stephens maintained, Polk deserved the appellation of the "mendacious,"[1] then the same disgraceful word was branded on the forehead of the Congress, for it had voluntarily and deliberately pledged itself to the truth of the official history of the origin of the war, had repeated the lie, and formally made it its own. It hardly need be said that Polk had not, as Jackson might perhaps have been able to do under like circumstances, hurried Congress along with himself by the violence of his will and the weight of his popularity; and, in the course of the war, Congress repeatedly showed that it was not at all inclined to allow Polk, as "the government," to manage and rule matters according to his high pleasure.

[1] "Why, if a man were ambitious of acquiring a reputation for duplicity and equivocation, he could not select a better example in all history than to follow in the footsteps of our President. He [the speaker] did not know any better or more fitting appellation in after times than Polk the mendacious." July 10, 1848. Congr. Globe, 30th Congr., 1st Sess., p. 912.

There is, therefore, but one valid explanation of the conduct of Congress—that it was in perfect accord with the President with regard to the purpose and the goal to which his crooked policy was directed. Does a further reproof lie in this, or does it place his conduct in a more favorable light?

CHAPTER X.

The Object and the Probable Results of the War.

The skirmish of the 25th of April had, indeed, put an end to the long war of words, in which the Mexicans had contented themselves with idle protests while Taylor first marched and then entrenched himself. The latter would have been well pleased if Arista, like his predecessor, had for a time waged war only with the pen, but he had had time enough to prepare for him a hot reception. The Mexicans, indeed, exulted loudly at Taylor's retrograde movement to Point Isabel, and were even alarmed—if we may believe their words—lest his flight should be so rapid that they would be unable to overtake him. They were soon to be relieved of this anxiety. A small fort—afterwards called Fort Brown from its valiant defender, who lost his life there—occupied them long enough to enable Taylor to make his necessary preparations at Point Isabel, and as soon as he was ready he drew out to meet them in the open field. Although he was inferior in numbers and the Mexicans fought bravely[1] he, nevertheless, remained in possession of the field, May 8th, at Palo Alto, and on the next day won a decisive victory at Resaca de la Palma. While the partisans of the administration were trying to hide their foul doings under cover of a patriotic fear that his army was in danger of annihilation, he transferred

[1] Nevertheless, Giddings was justified in saying later: "The miserable apology for an army there marshalled under the Mexican flag beyond the Rio Grande." Speeches, p. 257.

the theater of war to the right bank of the Rió Grande. On the 18th of May, he made his entrance into Matamoras.

If Douglas, immediately after the passage of the war bill, could venture to brand as traitors all those who did not go blindly with the administration,[1] those of the war party of course could now open their mouths doubly wide in jubilation at these brilliant deeds of arms. If Gidding's prediction that they were about to attack a hornet's nest had been fulfilled in the beginning, the complaints would have been louder and more general, even though, with insignificant exceptions, the people would have been in favor of continuing the war until they could withdraw from it with military honor unstained. Now, on the contrary, the masses were excited by success, and even the dissatisfied could not but desire this success to be as great as possible, if they could put faith in the President's assurance that his only aim was to conquer a peace.

To humble Mexico, victories in the struggle between the two main armies were, of course, the most important thing, and, to this extent, it was on these that the administration also laid the greatest weight. Apart from this, however, the administration was by no means especially eager for such triumphs. The long and unrefreshing history of its wranglings with the victorious generals, for which, however, the latter were partly to blame, shows that it was not at all its aim to provide the people with a number of fame-crowned chiefs. Their successes could, at

[1] "America wants no friends, acknowledges the fidelity of no citizen who, after war is declared, condemns the justice of her cause, or sympathizes with the enemy. All such are traitors in their hearts; and would to God that they would commit some overt act for which they could be dealt with according to their deserts." Congr. Globe, 29th Congr., 1st Sess., p. 815.

the most, indirectly bring Polk nearer to his goal. The most direct, and hence the most efficient, instruments for his purposes were small divisions of troops, and the fleet at the extreme limits of the theater of war.

General Kearney was charged with the "conquest" of Santa Fé, which lay within the "declared" boundaries of Texas, and of all New Mexico. He possessed himself of the territory without a blow, although he had to traverse a pass which might have been easily defended against a much greater force. The Mexicans abandoned this decisive position, before the Americans appeared in sight. The general public in the United States attributed this great and bloodless success to the military genius of Kearney. Benton, however, tells us,[1] that it is to be ascribed to a certain James Magoffin, who won over the Governor Armijo,[2] and overreached the aspiring and warlike Lieutenant Archuletti, by representing to him, that, if he relinquished the eastern part of New Mexico to the Americans, he could easily make himself master of the western part, which was not claimed by the United States. Benton was in a position to be well acquainted with this game behind the scenes, since it was he that had called the attention of Polk and Marcy to the valuable services which Magoffin, from his intimate acquaintance with men and affairs in New Mexico, would be able to render.

This peculiar kind of conquest bore its fruit later for the United States in a bloody uprising. At first, however, everything went well. Kearny had orders to see to it that his conquests remained in the "safe possession" of the United States, and with that object he was to establish

[1] Thirty Years View, II., pp. 682–684.

[2] Benton does not directly say that Armijo was bribed, but allows it to be pretty clearly understood.

in them temporary civil governments.[1] The General thought he was complying with these instructions by a proclamation of the 22nd of August, in which he announced that he took possession of all New Mexico, including, therefore, the portion on the right bank of the Rio Grande, proclaimed as traitors all those who had been in arms against the United States and who should not now immediately return to their homes, and, in conclusion, released all the inhabitants of the district from their allegiance to Mexico, and claimed "them as citizens of the United States."[2] One thing only Kearny forgot: he said nothing as to whence he deduced his right definitely to incorporate with the Union a district which his own government had always recognized as Mexican territory, and to transform Mexicans into citizens of the United States. When the House of Representatives afterwards sought information from the President on this point, the latter replied: that it was an acknowledged right of war to establish provisional governments in conquered territory; considerations of expediency of the most urgent nature had required the exercise of this right, and thus far only had the General's authority extended.[3] The "organic law" which Kearny caused to be elaborated for New Mexico by some of his subalterns, and which was almost as long as the Constitution of all the states of the Union together, did not, indeed, meet the entire approval of the administration, which even directly declared that such sovereign

[1] W. L. Marcy to Gen. Kearny, June 3, 1846. Exec. Doc., 30th Congr., 1st Sess., Vol. VII., No. 60, pp. 123, 154. I write the name as I find it in these documents. Elsewhere it is generally written Kearney.

[2] Ibid., pp. 170, 171. See also J. M. Cutts, The Conquest of California and New Mexico, pp. 46–49.

[3] Message of the 22nd December, 1846. Statesm.'s Man., III., pp. 1646, 1647.

dispositions exceeded his authority and were invasions of the domain of Congress.[1] But it contented itself with pointing out the fact and did not show itself at all displeased at this excess of zeal. Nor had it any grounds for displeasure, for the misunderstanding did not go very deep. Kearny had perfectly well comprehended the substance of his instructions. He had been, perhaps, a little indiscreet in the manner of their execution, but that was of slight consequence, since he could be coolly disavowed. A mere soldier, it did not occur to him that the Constitutional relations of the federal authorities to each other were in no wise altered by the war, and that the war must be carried on in accordance, not only with international, but also constitutional, law. That which was the ultimate object of the administration, he decreed at once, for the country was in his power and Mexico could put no obstacle in his way. It appeared to him that the possession of the country would be best secured if he proclaimed a definite incorporation with the Union; and in the simplicity of his ignorance of constitutional law, he actually believed that the inhabitants were absolutely transformed into citizens of the United States by the declaration that the territory was not to be restored. The thought that he was guilty of a monstrous usurpation of authority, and was compromising the President, was the less likely to occur, because he had been expressly directed to continue in their places all public officials who would take the oath of allegiance to the United States.[2] This instruction placed

[1] General W. Scott, Nov. 3, 1846, to Kearny: "You will not, however, formally declare the province (Upper California) to be annexed. Permanent incorporation of the territory must depend on the government of the United States." Exec. Doc., 30th Congr., 1st Sess., Vol. VII., No. 60, p. 164.

[2] "It would be wise and prudent to continue in their employment all such of the existing officers as are known to be friendly to the United States, and will take the oath of allegiance to them."

in a very peculiar light the statement of the message of the 22nd of December, 1846, that the orders issued to the commanders on land and sea had been solely intended, "to regulate the exercise of the rights of a belligerent," and had gone no further.[1] That Kearny had rightly comprehended the wishes and aims of the administration was clear beyond a doubt from this instruction, even though it did not expressly claim for the President the right to make citizens, and to incorporate the conquered districts with the Union.[2] From its own standpoint, it was, therefore, quite natural that the executive did not withdraw its confidence from him. His ultimate and real destination had from the beginning been California.[3] Thither, accordingly, he turned his steps, as soon as he regarded his first "conquest" as sufficiently secured by his copious, rather

[1] "These orders and instructions were given to regulate the exercise of the rights of a belligerent. * * * This was all the authority which could be delegated to our military and naval commanders, and its exercise was indispensable to the secure occupation and possession of territory of the enemy which might be conquered. The regulations authorized were temporary, and dependent on the right acquired by conquest. They were authorized as belligerent rights, and were to be carried into effect by military or naval officers. They were but the amelioration of martial law, which modern civilization requires, and were due as well to the security of the conquest, as to the inhabitants of the conquered territory." Statesm.'s Man., III., p. 1647.

[2] Kearny could not be blamed for so interpreting the following passage from Marcy's instruction of the 3rd of June, above referred to, and for not perceiving at all its artfully devised vagueness and ambiguity: "You may assure the people of those provinces that it is the wish and design of the United States to provide for them a free government with the least possible delay, similar to that which exists in our territories. They will then be called on to exercise the rights of freemen in electing their own representatives to the territorial legislature."

[3] "It has been decided by the President to be of the greatest importance in the pending war with Mexico to take the earliest possession of Upper California. An expedition with that view is hereby ordered, and you are designated to command it."

than exactly happy, legislative activity. On the 6th of October, after a march of eleven days, he sent back a part of his force, having received the news that the conquest of California had long since been accomplished.

Fremont had begun hostilities on the 11th of June by capturing a pack-horse intended for Castro. A few days later, the American settlers to the north of the bay of San Francisco rose in revolt, under the leadership of S. Merritt and W. B. Ide and seized upon the town of Sonoma.[1] A proclamation of Ide on the 18th of June, declared an alleged threat of the governor to put to death all Americans, who did not immediately leave the county, as the direct occasion of the uprising, the present object of which was the overthrow of the government and of military despotism.[2] Whether the leaders of the uprising acted, from the beginning, in accordance with a preconcerted plan with Fremont does not appear with certainty from my authorities. Fremont's admirers have always represented the affair as though he alone had done everything. This is unquestionably a mistake. The settlers were not merely the executive arm of which his brain and will made use, but they acted, at least in part, on their own initiative, and originally, also, under leaders from their own midst, although after a very few days, they chose him for their head. From the Valley of the Sacramento, where a number of Americans had gathered about him, he

[1] According to Hittell, A History of the City of San Francisco, p. 103, on the 14th of June; according to F. Soulé, J. H. Gibon and J. Nisbet, The Annals of San Francisco, p. 92, on the 15th of June.

[2] Fremont, too, averred, that, next to considerations of personal safety, it was this wild threat against the settlers that had forced him to draw the sword. But, although Ide's manifesto says: "threatened by proclamation," Hittell assures us: "This was a great mistake on the part of Ide and his friends. The governor of California had issued no such proclamation, nor was such a matter thought of."

hastened to the relief of Sonoma threatened by Castro. The Mexicans were repulsed, and their spoils captured. On the 4th of July, the handful of Americans, by Fremont's advice, declared California an independent Republic.

As early as the 29th of June, the governor, Pio Pico, in a sharp note to the consul, Larkin, had expressed the suspicion that the United States were at the bottom of the business, since he (Larkin) had viewed it with so great unconcern. Larkin responded that he had vainly offered the Mexican government his good offices as consul, and he unconditionally denied that his government had had anything to do with the affair. This was true to the extent that the conduct of Fremont and of the party of the Bear Flag had not been at all in harmony with the consul's own wishes.[1] Not the how, but the what, however, was the essential thing, and this within two days ceased to be a question of opinion.

News of the skirmish of the 25th of April between Thornton's dragoons and the Mexicans, reached Commodore Sloat at Mazatlan, on the 7th of June, by a courier, whom a young American named John Parrott had sent to him from Guadalajara.[2] On the following day, before the

[1] In the letter to Buchanan, already mentioned, we read: "The sudden rising of the party on the Sacramento under the Bear Flag, taking Californians' property to a large amount, and other acts, completely frustrated all hopes I had of the friendship of the natives to my countrymen, and of General Castro, through fear of his people, to come into the arrangements I expected."

[2] See Parrott's own account in the *New York Herald*, March 4, 1880. According to Sloat's report to Bancroft, of the 31st of July, it appears, moreover, that, before his departure he had also learned of the battles of Palo Alto and Resaca de la Palma, and this is the more probable because he refers to them in his proclamation of the 7th of July, and it is not easy to see when and how he could have obtained further news in the interim. Exec. Doc., 30th Congr., 1st Sess., Vol. VII., No. 60, pp. 258, 261.

Mexican authorities had heard of this momentous encounter, the commodore weighed anchor and stood out to sea. Admiral Seymour, the commander of the English squadron, followed him at once. During the night, however, Sloat altered his course and steered for the coast of California, while Seymour, thinking that the commodore was still before him, held on towards the Sandwich Islands. On the 2d of July, Sloat arrived before Monterey, but his attitude was at first inoffensive and friendly. Not till the 6th of July, on the receipt of the news of the events at Sonoma, did he let the mask fall. On the following morning, he summoned the Mexican commander to surrender the place, on the ground that Mexico had begun hostilities against the United States and the two powers were, therefore, in fact, at war. The commandant referred him to Castro, but made no attempt at resistance when Sloat prepared to employ force. The commodore then sent for Fremont. He was greatly as well as unpleasantly surprised to learn that the latter had acted wholly on his own responsibility.[1] He began to fear that he had repeated the blunder of Captain Jones. He was the less able or inclined to recede, because Captain Montgomery had in the meantime, under his orders, seized upon the places on the Bay of California, and the American settlers had exchanged the Bear Flag for the stars and stripes. He was equally disinclined to proceed with energy, until he had assured himself that he had not run

[1] Fremont says before the Senate committee, with regard to his interview with Sloat: "He appeared uneasy at the great responsibility he had assumed. He informed me that he had applied to Lieutenant Gillespie, whom he knew to be an agent of the Government, for his authority, but that he had declined to give it. * * * I informed him that I had acted solely on my own responsibility, and without any authority from the Government to justify hostilities." Sen. Doc., 30th Congr., 1st Sess., Reports, No. 75, p. 13.

himself into a blind alley. The indecision of mind into which he fell might, however, have had serious consequences, since Castro was assembling troops, the English settlers were coöperating with the natives at Santa Barbara, with a view to England's possessing herself of California, and every moment the arrival of Admiral Seymour was to be expected, since he would necessarily at last perceive that he was on a wrong trail. Fortunately for the American cause, Sloat found in the poor state of his health a good reason for withdrawing from his ticklish position, and for relinquishing the chief command to the more resolute Commodore Stockton.[1] Together with Fremont, however, the latter in a few weeks completed the conquest of the country. On the 13th of August he entered the capital, Los Angeles, and announced to the inhabitants that the American flag now waved over every place of any consequence.

Mexico's powers of resistance suffered little or no dimunition by the loss of New Mexico and California. These conquests, were, therefore, of no significance, if, as Marcy maintains, the only object of the United States was the attainment of their rights,[2] understanding the word in its

[1] That, for the time being, nothing was to be feared from England, at least, had for some days been no longer doubtful. Stockton had arrived on the 15th of July, but had not assumed the chief command until the 23d, and Seymour had appeared before Monterey by the 16th. If he had reached the spot at the same time with Sloat, the latter would hardly have summoned the place to surrender, and if he had done so, Seymour would not with folded arms have allowed things to take their course. An accomplished fact, however, he felt he must respect.

[2] Exec. Doc., 30th Congr., 1st Sess., Vol. VII., No. 60, p. 156. As early as June 26th he had ordered Colonel J. D. Stevenson to raise a regiment of volunteers in New York, to be sent to the Pacific Ocean via Cape Horn, "to be employed in prosecuting hostilities to some province in Mexico, probably in Upper California, * * * composed of suitable persons—I mean of good habits—as far as practi-

ordinary meaning. In the higher regions of politics, however, it is often understood in quite another sense. In the present instance the reckoning ran as follows: Mexico wantonly brought on the war, and must, therefore, in addition to the claims of our citizens, also pay the costs of the war. Now, since the Rio Grande was the true boundary, even before the war, Mexico has no counter claims, and money it is impossible for her to procure; she must, therefore, pay with the only valuable she has—land. Yancey fully concurred with the Whigs that there must be not a word said of conquest; but he declared, as a matter of course, that an indemnity in land must be required.[1] When it should come to the fixation of this indemnity, it would naturally be very convenient to be found in possession of what it was intended to retain, which, of course, was nothing more or less than what Slidell was to have bought for a few millions when adjusting the boundaries. What it had been impossible to buy was conquered in order to have it ceded by way of indemnity at the conclusion of peace. Bancroft never wearies of impressing this one precept upon Sloat, Stockton, and Biddle: See to it that as soon as practicable Upper California, at least, be in our hands in order that we may retain it if peace is concluded upon the basis of the *uti*

cable, of various pursuits, and such as would be likely to remain, at the end of the war, either in Oregon or in any other territory in that region of the globe which may then be a part of the United States. * * * The condition of the acceptance, in this case, must be a tender of service during the war; and it must be explicitly understood that they may be discharged, without a claim for returning home, wherever they may be serving at the termination of the war, provided it is in the then territory of the United States." That is a "regiment" of colonists. Congr. Globe, 29th Congr., 1st Sess., App. p. 809.

[1] Congr. Globe, 29th Congr., 1st Sess., p. 984

possidetis.[1] He might have spared himself the trouble. His first hint had been fully understood, and his wishes were fulfilled before these instructions reached their destination. Sloat acted solely upon the instructions, referred to before, of the 24th of June, 1845, and yet he did not content himself with taking Monterey, but did exactly what Kearny did in New Mexico. In his proclamation of the 7th of July he announced to the inhabitants: "I come as their best friend, as henceforward California will be a portion of the United States, * * * and the same protection will be extended to them as to any other state in the Union."[2] Stockton followed his example. In the latter's proclamation of the 17th of August, we read: "The Territory of California now belongs to the United States, and will be governed, as soon as circumstances will permit, by officers and laws similar to those by which the

[1] June 8, to Sloat: "You will bear in mind generally that this country desires to find in California a friend, and not an enemy; to be connected with it by near ties; to hold possession of it, at least during the war; and to hold that possession, if possible, with the consent of its inhabitants." July 12th, to the same: "The object of the United States is, under its rights as a belligerent nation, to possess itself entirely of Upper California. * * * The object of the United States has reference to ultimate peace with Mexico; and if at that peace the basis of the *uti possidetis* shall be established, the government expects, through your forces, to be found in actual possession of Upper California. * * * After you shall have secured Upper California, if your force is sufficient, you will take possession and keep the harbors on the Gulf of California as far down, at least, as Guaymas. But this is not to interfere with the permanent occupation of Upper California." Aug. 13, to Biddle, Stockton, or "the senior officer in command of the United States naval forces in the Pacific Ocean:" "You will take immediate possession of Upper California, especially of the three ports of San Francisco, Monterey, and San Diego, so that if the treaty of peace shall be made on the basis of the *uti possidetis*, it may leave California to the United States." Exec. Doc., 30th Congr., 1st Sess., Vol. VII., No. 60, pp. 237–239.

[2] Exec. Doc., 30th Congr., 1st Sess., Vol. VII., No. 60, p. 261.

other territories of the United States are regulated and protected."[1] The President's justification of his course in the message of the 22d of December, had also reference to this, and what was said above on that point finds application here as well: in forms, the two commodores had erred equally with Kearny, but, like him, in essentials they had fulfilled the wishes and the expectations of the administration. "The extension of our boundaries over New Mexico and Upper California for a sum of not more than twenty million dollars, is to be regarded as the *sine qua non* of any treaty," wrote Buchanan on the 15th of April, 1847, to his commissioner Trist;[2] and from the very first hour of the war this had been Polk's "ultimatum," since the desire for New Mexico and California was the only reason and the only purpose of the war.

This was the object with regard to which, as has been already remarked, not only the majority of Congress, but the great mass of the people, were in accord with the President. And that this was his object was, from the very first moment, as clear to the people as to Kearny, Sloat, and Stockton, because in reality, as Ingersoll said, these territories had been regarded with covetous glances from the moment when Mexico had ceased to be a Spanish province.[3] Therefore, the favorable opportunity for acquiring them was now eagerly embraced, without enquiring too closely just how this opportunity had been procured.

[1] Ibid., p. 267.

[2] Ibid., Vol. VIII., No. 69, p. 46.

[3] "I mean to show unanswerably that all parties in the United States, all administrations of this government, since Mexico ceased to be a Spanish province, have united in the policy of getting from her by fair means precisely those territories which, and only which, she has now constrained us to take by force, though even yet we are disposed to pay for them, not by blood merely, but by money, too." Congr. Globe, 29th Congr., 2d Sess., App. p. 125.

There was, indeed, no lack of those who, from ethical reasons, refused to hear of territorial conquests, and a still greater number was opposed to further acquisitions of territory on account of the old fear that the system of a federal republic could not with safety be indefinitely extended. With these was associated a third group of the opposition, with whose special motives we shall hereafter become acquainted. A large majority of the people, however, did not weigh the matter so nicely, but followed their instinctive feeling, and they saw in the accomplishment of Polk's aims the keystone of the magnificent cyclopean structure, whose mighty buttresses Jefferson had erected by the purchase of the Louisiana territory.

He who sees in this nothing more than a manifestation of the unbridled, brutal, national vanity of a growing people, which unites within itself all degrees of civilization down to semi-barbarism, is utterly lacking in comprehension of the place of the United States in the world's history; and without this comprehension, it becomes from day to day less possible to understand that which is distinctive and essential in the phase of development on which the civilized world entered at the close of the last century.

It is true that American politicians and demagogues have often improperly regarded the "manifest destiny" of the United States as a pack horse, on whose broad and strong back all their ambitious plans and unscrupulous, exaggerated desires might be unceremoniously loaded, and true it is, also, that the stump speakers enlarge upon this topic, more frequently than is perhaps absolutely necessary, to the well pleased, and already convinced, listening masses. But it is equally certain that "our manifest destiny" is neither a meaningless nor an unjustifiable phrase. The claims which have been founded and maintained on this,

had their historical justification in the proud consciousness that the United States could best solve the peculiar problems of civilization, appointed for America in the world's economy. The previous history of the Union afforded the most incontestable proofs of this, and in wrestling with these tasks the power to fulfill them satisfactorily was continually increasing. The lessons of experience, lessons learned in success, as well as in failures and mistakes, were not disregarded and the sentiment of responsibility before the tribunal of history became broader, deeper and more distinct. It was, therefore, not only natural, but it was an historical necessity, that with the growing consciousness and the progressive activity of its creative powers, the republic should set itself broader and higher tasks. And, after its territory had once been extended thus far to the west, it was a proper, nay an inevitable, thought that its banner must overshadow the entire continent, in its whole extent from ocean to ocean. Only in that case could America become to the fullest extent the connecting link between Europe and Asia; that is to the extent made possible by modern facilities of intercourse, and by the high degree of state association peculiar to the Union.[1] In the

[1] "I take it for granted, that we shall gain territory, and must gain territory, before we shut the gates of the temple of Janus. We must have it. Every consideration of national policy calls upon us to secure it. We must march right out from ocean to ocean. We must fulfill what the American poet has said of us, from one end of this confederacy to the other,

"'The broad Pacific chafes our strand.
We hear the wide Atlantic roar.'

We must march from Texas straight to the Pacific Ocean, and be bounded only by its roaring wave. We must admit no other government to any partition of this great territory. It is the destiny of the white race, it is the destiny of the Anglo-Saxon race; and, if they fail to perform it, they will not come up to that high position which Providence, in his mighty government, has assigned them." William D. Giles, of Maryland, in the House of Representatives, Feb. 11, 1847. Congr. Globe, 29th Congr., 2d Sess., p. 387.

north, the Union territory, indeed, already extended from sea to sea, but Oregon was too far removed from the heart of the Union, and its coast, poor in harbors, could never give the United States the dominating position on the Pacific Ocean which Douglas had pointed out as the kernel of the Oregon question. The long stretch of Upper California, on the other hand, covered the entire center and the greater part of the south of the Union, and the harbor of San Francisco was the main key to the Pacific Ocean. In the hands of Mexico, however, it was not only as good as lost to civilization, but it also lay exposed, a tempting prey, to all the naval and colonial powers of the world. Although there was yet no suspicion of the wonderful riches of every kind with which nature had endowed this strip of coast, yet its importance for the world's commerce was not rated low. Even supposing England's assurances that she had never thought of its acquisition by purchase to be wholly true, yet it was, at least, quite possible, that, sooner or later her cupidity might be wakened. If California, however, was not to remain in the possession of Mexico, then the United States were unquestionably the rightful heirs. Such inheritances, however, are easily lost unless possession is taken of them at the favorable opportunity, and in that case force must often take the place of the good will of the testator. No one had a right to cast a stone at those who regarded all wars of conquest as immoral, and who, therefore, passed judgment of condemnation upon this war. But history cannot decide such questions by the code of private morals. It is an established law of historic growth that decayed or decaying peoples must give way when they clash in a conflict of interests with peoples who are still on the ascending path of their historic mission, and that violence must often be the judge to decide such litigation between nations. Might does not

in itself make right, but in the relations of nations and states to each other, it has, in innumerable instances, been justifiable to make right bow before might. In whatever way the ethics of ordinary life must judge such cases, history must try them in the light of their results, and in so doing must allow a certain validity to the tabooed principle that the end sanctifies the means. Its highest law is the general interest of civilization, and in the efforts and struggles of nations for the preservation and advancement of general civilization, force not only in the defensive form, but also in the offensive, is a legitimate factor. The majority of the American people thought it right that, after all other methods had proved unavailing, the President should seek to obtain by force what the "manifest destiny" of the Union imperatively required, and this alleged "manifest destiny" of the Union corresponded in this case to a high interest of civilization, that is to say, to an interest which primarily, yet by no means exclusively, regarded the United States, an interest in which the entire civilized world was essentially concerned. No one to-day can have the front to deny that the Mexican war was as undoubtedly a war of conquest as the war of revolution of Louis XIV., or the wars of Napoleon I., but history can not for that reason declare it a dark page in the annals of the Union. If it must be so designated at all, it is on other grounds.

It is characteristic of the people, that, although a majority of them approved of the war and of its objects, and these objects were obtained after a long series of glorious victories, the originator of the war was yet by no means a popular man. It was, indeed, natural that the forms of the victorious generals should be more brilliantly prominent in the eyes of the people, but we cannot but be struck by the fact that Polk went out of office so quietly and that,

as soon as he had retired from office, and had sunk out of sight, his form in the popular memory was dissolved into a vague mist. No reproach falls upon the people for this, however. They were ready to believe that Mexico's sins against the United States were great enough to justify a war, but they were not at all pleased with the rôle which the President had played in the affair. The reasoning of the masses in such cases is not wont to go very deep, nor do they enquire very anxiously, whether and how far, it is self-consistent. If Polk's conduct exposed him to just and severe censure, the next question to suggest itself was, had he not painted Mexico blacker than she really was; but this question was not even considered by a large part of his opponents. The account against Mexico was, without further question, accepted as correct, just as he had presented it, but the straight-forward, manly feeling of the people was repelled by the reticences, perversions of fact, and ambiguities, in which the President had moved from the beginning. Even when the speeches of the opposition which exposed unsparingly the ugliness and the unworthiness of his conduct, were disregarded, simply because they were speeches of the opposition, people felt instinctively the truth. The letter to Kane had not been forgotten, and not with impunity had the policy of the government on the Oregon question been so tortuous, disguised, and sordid. And the period that followed did not improve the unrefreshing picture presented by the debut of the administration, for all these affairs were continued and brought to a termination in the same spirit in which they had been begun.

The next step towards a definite agreement about Oregon was taken by England. England, however, in the draft of a convention which Pakenham delivered to the Secretary of State, on the 6th of June, did not, as Benton

would have us believe,[1] accept the offer originally made by Polk and rejected by the ambassador, but declared herself ready to be satisfied with what had previously been offered her, that is, with the 49th degree as a boundary, and free navigation of the Columbia. It was added that, this offer had been resolved upon by a majority of only one vote, and, in the opinion of the American ambassador, would not have been made, if the news of the outbreak of the war with Mexico had arrived at the time.[2] However this might be, all thought of a direct rejection of the proposition was absolutely excluded by the Mexican war. Polk had not for a moment doubted that it must be accepted. But it was hard, almost impossible, for him to acknowledge this openly and frankly, after he had so emphatically declared that he had made his proposition only out of regard for his predecessor. Benton rescued him from the embarrassment of this dilemma, and opened for the President the door of escape, which Buchanan had already pointed out in the dispatch to McLane above referred to. He advised him to throw the responsibility upon the Senate, by asking that body's advice, with the announcement that he should act in accordance with it, instead of laying before it his own decision in favor of an acceptance. In taking this course, the President could appeal to the example of Washington. But that this practice, which had wholly fallen into desuetude, should be sought out again just at this juncture, made the Presi-

[1] Thirty Years' View, II., p. 674.

[2] "The question in the (English) cabinet, as to offering the terms which Mr. Pakenham has offered, and which have been acceded to, was decided by a majority of but one vote, Mr. Peel, the minister, voting in the negative, though he acquiesced on finding a majority against him. Had the declaration of war against Mexico been received, Mr. McLane is said to have expressed his conviction that no such terms would have been offered." Niles' Reg., LXX., p. 241.

dent's purpose as evident as though it had been directly expressed. This was vexatious enough, but what made the matter still worse was, that the President in so doing was forced to put himself unconditionally in the power of the Whigs. Only in case the latter should prove patriotic enough wholly to disregard their party interests and to vote for the convention, could the requisite majority be secured. Benton, by interviews with them all, assured himself "that they intended to act for their country and not for their party." Polk, however, was so fearful that they would, at the last moment, allow him to fall into the pit which he had himself dug, that, on the night before the decision, he again sent for Benton in order to assure himself once more that the Whigs would all be at their posts and would support the convention.[1] This gave Polk courage on the following day, the 10th, of June, to send the English proposition to the Senate with a message of the character indicated,[2] and to declare at the same time that his views as expressed in the annual message had undergone no change. Benton's reward was, that the organ of the administration raked him over the coals without mercy for his exertions in bringing about the settlement, for Polk kept up his rôle consistently to the end. He could, indeed, now do so without fear, for on the 12th of June the Senate declared in favor of the convention by a vote of 38 to 12.[3] On the 15th of June, the convention was returned to him[4] and the Oregon question was thereby finally disposed of even to the accomplishment of the last formalities.

From the time when Polk had given the question a

[1] Thirty Years' View, II., p. 675.
[2] Statesm.'s Man., III., pp. 1600, 1601.
[3] Congr. Globe, 29th Congr., 1st Sess., Append., p. 1168.
[4] It is also printed in full in the Deb. of Congr., XV., p. 641.

critical character, it had often been asserted, or rather insisted, that it could and should be settled only in conjunction with other questions which had no real connection with it. Wentworth, of Illinois, had opined that the proposition for an arbitration ought not to be entertained until England should have abolished her corn laws.[1] Hannegan, likewise, pointed out that an attempt was being made to render the west more yielding by the representation that it might now open England as a market for its breadstuffs. This he thought an absurdity, since England could draw her corn supplies from the Baltic countries, and, moreover, deserved no compensation for opening her harbors to foreign grain, for she was forced to do this by the starving populace; and lastly it would be treasonable to attempt to purchase any economic advantages whatever with Union territory.[2] But he, too gave credence to the rumor that the change in the President's views, announced by Haywood, was to be ascribed to the fact that the news which had arrived by the last steamer offered free trade in exchange for a settlement with regard to Oregon. According to these reports, however, the alteration of the revenue laws in the direction of free trade was to be mutual. As early as the 12th of February, the *New York Journal of Commerce* had asserted with great definiteness that the governments were already united on the 49th degree as a dividing line, but that the treaty was to be ratified only after the United States should have reduced their tariff on British wares—coal and iron excepted—to a maximum of twenty per cent., and the English corn tariff should have been correspondingly lowered.[3]

[1] Ibid., p. 370.

[2] Deb. of Congr. XV., p. 414.

[3] "Leech, Such a treaty will be ratified by the Senate by a vote of 38 to 18."

It may, therefore, be regarded as indubitable, that many heads were busy with combinations of this sort,[1] and it is at least not improbable that in informal discussions even official personages referred to them, with more or less emphasis.[2] The insinuation of the Whigs that the alteration of the tariff undertaken by the ruling party was to be referred more or less to an unclean bargain with England, was, nevertheless, wholly without foundation in fact. The party simply remained true to its old programme, and Polk had already in his annual message proclaimed in a way not to be misunderstood, that, whatever Pennsylvania might have been able to find in the Kane letter, he in this matter stood wholly on the regular party platform.

There was no occasion for appearing so astonished and outraged now that the victors prepared to realize their victory, and, in reality, nothing else had ever been expected. Neither the Whigs nor the protectionist minority of the Democrats had any essentially new arguments to bring forward. The long and animated debates, therefore, offer us nothing of special interest, however large a share they claimed of public attention at the time. Apart from economic considerations, which cannot here be discussed, the only fact of consequence is, that it was only by the utmost exertions that the orthodox Democrats could win a partial victory, and the personal authority of Polk and the unity of his party received a new blow, so that from a political standpoint it might be regarded as doubtful whether the victory had not cost more than it

[1] Niles' Reg., LXIX., p. 370.

[2] The *Richmond Enquirer*, which was still to be regarded as a quasi official sheet, read the Whigs a sharp lecture for their obstinate clinging to the tariff of 1842, "though its modification *may* be eminently calculated to produce peace with all the world." Ibid., p. 354

was worth. Although, on the whole, the majority were not inferior to the minority in the debate, and the report of the Secretary of the Treasury notably deserved the loud applause that was lavished upon it by all who shared his views, nevertheless, it was not difficult to discover in the reasoning in support of the Administration weak points which could be used with telling effect by skillful hands. Thus, for example, it was somewhat strange to hear now that an abatement of the tariff was necessary in order to effect the increase in revenue receipts required to meet the cost of the war.[1] It might be true that low duties would yield a greater return, but hitherto it had always been one of the main arguments against the protective system that it gave too great revenue receipts. Yet such inconsistencies in reasoning were too common in parliamentary contests seriously to injure the party. The important thing was, that Polk, in unison with a great part of the most distinguished party leaders, had blown hot and cold at the same time in the electoral contest, and that the fanatically protectionist Pennsylvania, which had been blinded by a special tariff platform, was indispensable to the party. Even the *Charleston Mercury* declared that it was only a richly merited punishment for this dishonorable equivocation, that the members of the party were now at bitterest feud with each other, and that no proposition of the Administration could count with certainty upon a majority.[2] So much higgling and so much circumspection were required that finally even the originators of the scheme admitted with tolerable openness that their measure was a sorry production.[3] Such as it was,

[1] Deb. of Congr. XV., pp. 465, 495; Congr. Globe, 29th Congr., 1st Sess., pp. 989, 990.

[2] Niles' Reg., LXX., p. 346.

[3] Winthrop said, Sept. 23d, 1846, in a speech before the Massachusetts State convention of Whigs: "Gentlemen, party has done this

however, they could not carry it till after the thumb-screw of party had been given the last turn. The Senate had instructed the Finance Committee to prepare certain changes in the bill to meet the views of the united opposition. The committee refused to comply, on the ground that the required changes would give the bill an altogether different character. The opposition replied to this, that no committee had ever yet had the audacity to refuse to execute definite instructions, and that the presumptuous willfulness was the more inexcusable in this instance because the committee admitted by its silence that it had not even attempted to comply with the request of the Senate. As, however, the committee was right in stating that the execution of the instructions would be tantamount to a rejection of the bill, the Senate yielded to its desire and relieved it from further consideration of the alterations. The friends of the administration, however, prevailed by a majority of only one, and when it came to a vote on the motion of Johnson, of Maryland, to refer the bill to the committe again with new instructions, the vote of the Vice-President even was required for its rejec-

work. The self-styled Democracy of the country pledged itself long ago to its accomplishment, and has now fulfilled its pledges, in spite of all personal convictions. Where was there a voice raised in full, cordial, unequivocal approbation of this new tariff? Nowhere on this side of the Atlantic. Nowhere within the wide-spread limits of our own Republic. When Senators were called upon to explain and defend the details of the new system, they all with one consent began to make excuses, or else stood mute. One resigned, rather than vote for it. One was gazetted as having attempted to run away, rather than vote for it. Mr. Benton admitted that he dared not look at what he was doing. Mr. Calhoun even, was understood as having expressed the strongest misgivings as to its present policy. The casting vote was given at one stage by a Vice-President, and at another by an instructed Whig * * * who both acknowledged their personal judgments to be against the measure." The True Whig Sentiment of Massachusetts, p. 22.

tion. Directly upon this followed the decisive vote on the third reading, and again the vote stood 27 against 27. The Vice-President had to lay his head upon the political block in order to rescue the bill.[1]

This produced in Pennsylvania the feeling that a base insult had been added to the injury, by the fact that, after they had been lured on by the Kane letter and by the nomination of a Pennsylvanian for Vice-President, this Pennsylvanian was chosen as the man to give the decisive vote against the protective system. It availed Dallas nothing that he protested that he had voted for the bill with a heavy heart, because the industrial interests of the country might and should have been more regarded. That the names of Polk and Dallas could never again appear upon a Pennsylvania election banner was a matter of course, but it needed not greatly trouble the Democrats. If, however, the exasperation of Pennsylvania should be great enough to place her on the Whig side in the next presidential election,[2] then a very high price would have been paid for a tariff which the Democrats themselves regarded as, at best, a little less of an evil than its predecessor.

These events occurred in the Senate on the 28th of July. Congress had now been in session almost eight months and the entire session had been an almost uninterrupted series of agitations and important events. Now, at last, it seemed they might hope that the short time before the adjournment, would pass in comparative tranquility. But at the last moment the rent clouds discharged themselves

[1] The Administration party had forseen, that they would meet strong opposition in the Senate, and had therefore delayed the introduction of the tariff bill till the arrival of the Senators from Texas. Congr. Globe, 29th Congr., 1st Sess., Append., p. 195.

[2] "The day of retribution must come with overwhelming force." Ramsey, of Pennsylvania, June 19, 1846. Ibid., p. 712.

in so dazzling a flash that Congress and the people started in affright. Before the short sharp thunder clap that followed had died away, Congress adjourned for four months, but even the dullest nerves felt that this flash and this thunder clap announced a storm of frightful violence.

On the day (May 13) on which Congress, in accordance with the declaration of the President, recognized that the United States "by the act of Mexico" were at war with the latter country, there left Washington, simultaneously with the direction to blockade the hostile coasts, the following laconic order, addressed to Commodore Connor: "If Santa Anna endeavors to enter the Mexican ports you will allow him to pass freely, George Bancroft."[1] The affair became known, and this remarkable amiability towards the exiled dictator was connected with the no less remarkable confidence, with which the intimate friends of the President and the minister had maintained from the outset that the war would be terminated in three or four months. In the beginning of July, the administration thought it necessary to meet these rumors and speculations by a defiant declaration in the *Daily Union*. With an air of the loftiest moral indignation and misunderstood virtue, the organ of the White House gave the assurance that the President was resolved to conduct the war with the utmost energy and to compel Mexico by the sword to do justice to the United States, and that he was not allied with Santa Anna for the revolutionizing of Mexico or for any other object. The last statement, if understood literally, was correct, as far as we can learn from the published documents. Polk and his Cabinet had, at any rate, made no bargain with Santa Anna, and, therefore, they had not the slightest right to complain, that, from the first hour,

[1] Exec. Doc., 30th Congr., 1st Sess., Vol. VIII., No. 60, p. 774.

he did exactly the opposite of what they had hoped and expected. Whether the matter assumed a more favorable aspect for them from the fact that they had taken a step which might seriously compromise them, and draw after it the most important consequences, not on the strength of a definite compact, but on the vaguest and at the same time the most singular assumptions is another question. This, however, is a factor of minor importance. The essential fact was that the administration had wished to make use of Santa Anna in order to be able to terminate the war satisfactorily in two or three months. As Benton said, "an intrigue was laid for peace before the war was declared! And this intrigue was even a part of the scheme for making the war."[1]

On the 14th of January, Slidell had reported that, in the opinion of many well informed persons, the uprising of Paredes against Herrera had been mainly instigated by the friends of Santa Anna.[2] Commodore Connor had then written, on the 2d of March, that a new revolution was expected, because, with the exception of the military, all classes of the population were opposed to Paredes and his following, and that it was even thought probable that there would be an alliance between the Federalists and the party of Santa Anna with this object.[3] And on the 18th of March Slidell had confirmed this news with the further announcement that Santa Anna was to be invited to place himself at the head of the "liberal movement" against the

[1] He adds: "It is impossible to conceive of an administration less warlike, or more intriguing, than that of Mr. Polk. They were men of peace, with objects to be accomplished by means of war. * * * They wanted a small war, just large enough to require a treaty of peace." Thirty Years View, II., p. 680.

[2] Exec. Doc., 30th Congr., 1st Sess., Vol. VII., No. 60, p. 50.

[3] Exec. Doc., etc., p. 122

government of the usurper.[1] On these reports the administration based its plan. Paredes, said the President, in his second annual message, in which he made his involuntary confession of sins, had obtained possession of the government by means which made it absolutely impossible for him to come to terms with the United States. Matters could have been made no worse in this regard by any revolution, while there was ground for hope that an understanding could be more easily reached with a different government. The fall of Paredes, therefore, "became an object of much importance with a view to a speedy settlement of our difficulties, and the restoration of an honorable peace," and the news from Mexico made it probable that the return of the ex-dictator from Havana—a return which could hardly have been prevented — would further the accomplishment of this wish. There had been the less inclination to place obstacles in the way of his return, because it was reasonable to suppose "that it would be his interest to favor peace."[2]

With the exception of the last point, on which unfortunately all depended, Polk's anticipations proved correct. Paredes fell on the beginning of August, on the 8th Santa Anna left Havana,[3] and on the 15th he reached Vera Cruz, and in a short time he was again the first man in Mexico, only it was not as the head of the peace party,

[1] Ibid., p. 67.

[2] Statesm.'s Man., III., pp. 1632–1634.

[3] "One thing could not avoid suggesting itself to the Senate, and that was the inquiry, how it had happened that in the months of May, June, July, and August last, when Santa Anna had the orders, which had doubtless been communicated to him, that he might return, he never started to go to Mexico until the President had asked them in secret session, and afterwards in public, to give him two millions of dollars for this purpose." Reverdy Johnson, Feb. 6, 1847. Deb. of Congr., XVI., p. 49.

which no longer existed, but as head of the party of war. Polk and his advisers were so far from dreaming that matters might take this turn, that—showing themselves excellent reckoners in point of time—they made all arrangements to bring the little affair to an immediate conclusion. On the 27th of July, word was sent to the Mexican government that the United States were prepared to enter upon negotiations for a peace, and on the 4th of August the Senate was notified of this step. "The chief difficulty," said the President's message, "to be anticipated in the negotiation is the adjustment of the boundary between the parties by a line which shall at once be satisfactory and convenient to both, and such as neither will hereafter be inclined to disturb. This is the best mode of securing perpetual peace and good neighborhood between the two republics. Should the Mexican government, in order to accomplish these objects, be willing to cede any portion of their territory to the United States, we ought to pay them a fair equivalent; a just and honorable peace, and not conquest, being our purpose in the prosecution of the war." Mexico's financial embarrassments made it quite conceivable that a portion of the purchase money would have to be paid in advance in order to accomplish the object. The Senate would, therefore, do well to consider whether it was not advisable that Congress should grant a sum of money for this purpose, and at the same time empower the President to pay it over as soon as Mexico should have ratified the treaty of peace, even though it should not have been possible to lay the same before the Senate for acceptance.[1] On the 8th of August Polk addressed a message of similar import to both Houses of Congress, in which he finally asked for the

[1] Stateman's Man.. II., pp. 1610, 1611.

definite sum of two million dollars for the object mentioned.

On the same day, McKay, of North Carolina, introduced in the House a bill to comply with the wish of the President. Carroll, of New York, remarked that it seemed very strange, after so many brilliant victories, to vote some millions to buy a peace, when the exaction of the American claims had been declared one of the most essential grounds of the war. Such subtleties, however, could not stop them now. On motion of McKay, it was resolved to limit the debate in the "Committee of the Whole" to two hours, and to allow each speaker only ten minutes. This bill, like the war measure, was to be forced through Congress with violent haste. The time was disgracefully short for a measure of this importance, but it was long enough to allow of the springing of a mine which shook both the Union and slavery to their very foundations. White declared that it was not peace but land that was to be bought, and that he would never consent to the granting of a dollar for that purpose, unless the bill should in express terms secure the land to be acquired, against slavery. Winthrop said that it was "southern territory" that the President wished to buy, of which there was already enough, apart from the fact that new territorial acquisitions in general were not desirable. The House had listened to the two speakers with attention but without special excitement, for, though their objections touched no points of the regular party programme, they still came from the ranks of the opposition. These objections, however, acquired a wholly new significance when they were repeated by a member of the ruling party and an unsuspected friend of the administration. Wilmot, of Pennsylvania, a Democrat who had worked zealously for the

annexation of Texas[1] expressed his regret that the President had not explained his objects with less reserve, but nevertheless he was in favor of the voting of the two millions, because he regarded the purchase of a strip of land on the Pacific coast together with San Francisco as very desirable; to one thing only he declared he never could give his assent—the introduction of slavery into a region which now under Mexican rule was free, and he, therefore, moved as a proviso to McKay's bill, that slavery should be forever prohibited in all the territories to be acquired from Mexico.[2] Adams thought it superfluous to say anything on the subject because slavery did not exist in California and, therefore, could never be introduced there except by an express provision in the treaty with Mexico. This would unquestionably have been the law, but none the less it became immediately clear that Wilmot's motion was not necessarily superfluous. A representative of a free state, Wick, of Iowa, moved to insert in the proviso, "north of 36° 30′ north latitude," that is, to extend the line of the Missouri Compromise to the Pacific. The motion was, however, rejected by a vote of 89 to 54, and Wilmot's proviso passed by a vote of 83 to 54.

So suddenly and unexpectedly had the contest originated, and so quickly had it been decided, that for the moment neither the victors nor the vanquished, even remotely, appreciated its significance. Immediately after the passage of the war-bill, Giddings had charged the south with having instigated the war in order to win new territories for slavery, and he had at the same time predicted that the south itself would most vigorously oppose these conquests, if it should prove that they were to be closed to

[1] "I supported it with my whole influence and strength." Congr. Globe, 29th Congr., 2nd Sess., Append., p. 315.

[2] Ibid., 29th Congr., 1st Sess., p. 1217.

slavery.[1] It was this that had moved Calhoun to place himself on the Whig side in the war question, and to fight more ardently, persistently, and anxiously than they for the preservation of peace. The Paul of the evangel of slavery had been no more listened to than if he had been the most unknown and insignificant tyro upon the political stage. The south had either not understood or had not wished to understand his unuttered warnings, and had not been able to read anything in his gloomy glances, and in the deep, anxious folds of care in his forehead. But now, as soon as the words "territorial acquisitions" were pronounced, the south was answered not only from the mouth of its old opponents but from the midst of its devoted northern friends[2] with the loud declaration: not a foot-breadth of the territory to be acquired shall be shadowed by the dark banner of the "peculiar institution."

Could it be that the slavocratic instinct of the gentlemen from the south had grown so dull over night, that they even now failed to perceive what fatal consequences the war of conquest threatened to the slaveholding interest? They could only thank an accident of the most singular character that the Wilmot proviso had not already become a law, without even allowing them an opportunity to combat it. The unseasonable loquacity of John Davis prevented the bill of the House from coming to a vote in the Senate. Although he was repeatedly reminded that there was not a moment to spare, and although he repeatedly promised to end in good season, he spoke right on till he was interrupted in the middle of a sentence by the

[1] Speeches, pp. 194, 200.

[2] Jacob Brinkerhoff, of Ohio, the real originator of the proviso, was likewise a Democrat, but had Wilmot make the motion because the latter was more closely connected with the administration and with the South. Cfr. Wash. Union, Jan. 25, 1848.

announcement that the House had adjourned *sine die*.[1] A Senator from Massachusetts had literally talked the Wilmot proviso to death by a most sensible speech in its favor. On him were now poured out all the vials of wrath, not of the friends of the proviso, but of the Administration.[2] They were thinking only of the two millions, or at least they acted as if they were thinking only of these. It may be that Polk was so sure of the success of his peace intrigue if he only could get the money, and so completely taken up with the thought of the completion of the great purchase for which he had worked so long with such cunning, unscrupulousness, and tenacity, that he was for the moment inaccessible to other considerations. But even if we assume that the President and a section of the south would have been less annoyed at being compelled to take the golden key to the good will of Santa Anna and his associates with the chain of the proviso attached, than they would have been at not securing it at all, there can be no doubt that the south would not

[1] Congr. Globe, 29th Congr., 1st Sess., p. 1220.

[2] Wilmot said in the House, Feb. 8, 1847: "Sir, the friends of this Administration, of whom I am one, did not then charge upon me, did not throw the whole burden upon me, nor upon those who acted with me, of having by the introduction and support of that proviso at an untimely period of the question, defeated a measure especially necessary for the establishment of peace between this country and Mexico. The 'Union,' sir, the whole Democratic press in the land, charged this upon the unparliamentary conduct of a Senator from Massachusets. He was charged with having defeated this great measure, by the Admistration press, and the 'Organ' of the Administration, showing that the Administration and the President were entirely willing to accept of this appropriation under the restrictions imposed by the proviso which I offered.

"Yes! no anathemas were fulminated against me then. I was not then denounced as an abolitionist by the correspondents of the *Union*, as I have been since, and from which charge I intend to vindicate myself." Ibid., 29th Congr., 2d Sess., p. 352.

have submitted to the condition of the proviso without resistance, even if had at this time obtained the force of law. The history of the succeeding years offers the most decisive proof of the correctness of this statement. If we look upon it as certain, as was then believed, that the striking out of the proviso moved by Lewis, of Alabama, would have been rejected, and that the bill of the House would have been passed unaltered by the Senate,[1] Davis' long speech was certainly a ridiculous folly as well as a grave mistake. But none the less is it absurd to make him responsible, as has often been done, for the frightful dissensions of the next four years. Certainly the south would have had a much more difficult position to maintain, if the Wilmot proviso had become a law, but under no circumstances could the question involved in it become a mere secondary appendage to another question, to be determined, almost without debate, by a vote suddenly brought on, more or less to the surprise of both parties. After the country had once been plunged into war, peace could not be concluded before the attainment of the prize for which alone the sword had been drawn. Even had the originators of the war now consented to this, public opinion would have made it simply impossible. The people had never felt that the claims or the refusal to receive Slidell touched the honor or the interests of the country so nearly as to necessitate a war, they had never believed that Taylor's advance to the Rio Grande and his provocatory measures were required for the protection of Texas; but now that blood had flowed, that victory upon victory had been won, and millions had been expended, they rightly regarded it as absurd to recall the army without

[1] H. Wilson considers this view entirely erroneous. Hist. of the Rise and Fall of Slave Power in America, II., p. 17.

any compensation, and with Christian, quixotic sentimentality and unselfishness, to restore what they had held since the first months of the war. But if slavery was excluded from the newly acquired territories, and in such a way as to establish as a principle for the future the exclusion of slavery from all territories to be acquired, the balance of the slave states in the Union was irrecoverably lost, and the beginning of the end of slavery had thereby arrived. The Wilmot proviso was thus a question of life and death for the slavocracy, and from their whole previous history it was as clear that they would not allow it to be decided against them without war to the knife, as it was certain that the war had made impossible the indefinite postponement of the decision. The struggle had now to go on until in one way or another it led to a final decision between the two opposing principles of freedom and slavery. Every suspension of hostilities could be only a self-deception, throwing a temporary cover over the fire which glowed with redoubled intensity beneath.

On the 24th of February, 1847, Calhoun said in the Senate: "Every Senator knows that I was opposed to the war; but none knows but myself the depth of that opposition. * * * On the passage of the act recognizing the war I said to many of my friends that a deed had been done from which the country would not be able to recover for a long time, if ever; and added, it has dropped a curtain between the present and the future, which to me is impenetrable; and for the first time since I have been in public life, I am unable to see the future. I also added that it had closed the first volume of our political history under the Constitution and opened the second, and that no mortal could tell what would be written in it."[1]

[1] Calhoun's Works, IV., p. 371.

CHAPTER XI.

The Session of the "Three Million Bill," and the Wilmot Proviso.

When Congress again assembled on the 7th of December, 1846, the situation at the theatre of war was in the highest degree satisfactory. Monterey, the capital of Nuevo Leon had capitulated on the 24th of September, and Taylor had concluded an armistice of eight weeks. More than half the Mexican territory had been conquered.[1] In spite of this, the President's message was by no means supported by the proud, victorious confidence that, in the eyes of the people, this magnificent result would wreath his forehead with a garland of laurel. It began by taxing with high treason the opposition, who pronounced the war "unjust and unnecessary." The word itself was, to be sure, not pronounced, but a portion of the definition which the constitution gives of this the gravest of all political crimes, was introduced in quotation marks, and applied to the opposition.[2] Had it been true, as the mes-

[1] * * * "About two-thirds of the entire territory of the Mexican republic, and about one-tenth of its population." Dix, Speeches, I., p. 164.

[2] "A more effectual means could not have been devised to encourage the enemy and protract the war than to advocate and adhere to their cause, and thus give them 'aid and comfort.'

"It is a source of national pride and exultation that the great body of our people have thrown no such obstacles in the way of the government in prosecuting the war successfully, but have shown themselves eminently patriotic, and ready to vindicate their country's honor and interests at any sacrifice." Stateman's Man., III., pp. 1617, 1618.

sage asserted, that but few had cherished those "erroneous views," the President would surely never have so lowered his own dignity, and the dignity of his office, as to aim this secret stab at his opponents like a political bravo from behind a concealing mantle. Had he had no reproaches to meet either from his own conscience or from the people, he would have spared himself the pains of recounting at endless length the entire history of the negotiations with Mexico. His guilty conscience proved a poor counselor. The very fact that the head of a nation thinks it necessary to lay before the people a plea of some eight hundred closely printed lines, in order to demonstrate that a victoriously conducted war was purely a defensive war forced upon the country, is in and of itself, almost sufficient proof of the contrary. By this course Polk simply provided his opponents with a whole arsenal of sharp weapons, since, after having once made the blunder of assuming a defensive attitude, he naturally fell into the further mistake of trying to prove too much. It would have been for his interest to leave the origin of the

The *Union* made an attempt to organize systematically moral terrorism throughout the country. As Polk neither had too much self-respect, nor thought it inconsistent with the dignity of his office to adopt such a tone of demagogism, we have no grounds for assuming that the proposition of his organ was made without his knowledge and against his will. The *Union* writes Dec. 26, 1846: "A war register. Timely proposition. It has been suggested that the cause of the war may be promoted by the opening of a war register in every city, town, and village, for the purpose of preserving an authentic record of the Toryism which may be displayed by individuals during the continuance of the present war. In this register it is proposed to record the names of such persons as make themselves zealous in pleading the cause of the enemy, and oppose the war into which the people and the government of the United States have been forced by Mexican aggression, insult, and robbery. Besides the names of the individuals who pronounce against the justice of our cause, such sentiments as are particularly odious should be placed on the register."

war as far as possible undiscussed, treating it as a question which now had only theoretical interest.

Perhaps the President and his ministers would have perceived this if they had not been standing helpless and anxious before the problem, how the game was to be brought to its conclusion. They had conquered more than they intended to retain, and it was certain that Mexico could never recover the prey from them by force. But their "peace intrigue" had failed. Whether Polk was right or wrong in attributing the responsibility for this to Congress,[1] mattered not. On the 31st of August the Mexican government had declined to enter upon the proposed negotiations for peace, and had referred Polk to the Congress which would assemble at the beginning of December. That this body would show itself more pusillanimous and less proud than the government, and would have the courage to act in opposition to public opinion and the wishes of the military, was, to say the least, not very probable. The party of the moderates was so weak that it was obliged to act with the utmost caution, and even this party declared a peace on such conditions as the victor would now offer, to be irreconcilable with the honor of the nation.[2] They could hardly be expected to alter their opinion on hearing the conditions; for although Polk's message gave the assurance that conquest was not the object of the war, it proclaimed that the United States must require ample indemnity, not only for the old claims,

[1] * * * "It is much to be regretted that it (the two million bill) did not become a law." Statesman's Man., III., p. 1636. Benton says: "Santa Anna * * * expected this money, and was ready to treat on the assurance of receiving it." Deb. of Congr., XVI., p. 40, note.

[2] See two articles from Mexican journals, in which the standpoints of the two parties are sharply defined. Dix, Speeches, I., pp. 172–176.

but also for the costs of the war. Polk, it is true, had not yet lost his faith in the "almighty dollar." He thought it would still be well to wait and see if the allowing Santa Anna to return had not been a good stroke of policy, and he urged Congress to use dispatch in granting the sum requested at the close of the preceding session, as the reasons for the request still subsisted unchanged. Just before this, however, events had taken place behind the scenes which made it very clear that he was now by no means so sure of the affair as he would fain have had it believed. The victories and the conquests hurried him, his party and the country, deeper and deeper into a labyrinth of embarrassments and dangers.

A dispatch of Marcy to Taylor, of the 13th of October, not only expressed dissatisfaction at the favorable terms of capitulation which the general had granted to the garrison of Monterey, but also disapproved of the armistice he had concluded. Taylor's report of the 25th of September had said that his decision had been partly determined by the reflection that the change of government in Mexico had opened a prospect of peace. On this the Secretary of War remarked sharply and curtly that at all events the present rulers had as yet done nothing that justified this expectation. Taylor replied sharply: "Whatever may be the actual views or disposition of the Mexican rulers or of General Santa Anna, it is not unknown to the government that I had the very best reason for believing the statement of General Ampudia to be true."[1] We might honestly wonder at being blamed for thinking probable what the President has regarded as so certain that he had made it one of the essential hypotheses on which he based his policy. In a policy which is a verit-

[1] Exec. Doc., 30th Congr., 1st Sess., Vol. VII., No. 60, p. 360.

able mosaic of intrigues, and which makes a peace intrigue the basis of an offensive war, it is very easy to reach a point where inconsistency is the only consistency left, in word, and perhaps also in deed.

When, continued Marcy's dispatch, the government's offer to enter upon peace negotiations was referred to the Mexican Congress, "it was deemed by the government here highly important that the war in the mean time should be prosecuted with the utmost vigor to the end that they [the present rulers of Mexico] might be made sensible of the evils of its continuence and thereby become more inclined to bring it to a speedy close."[1] This view might be quite correct, but there was no justice in blaming Taylor for the armistice, for not only had he at the time been entirely ignorant of the refusal of the Mexican government,[2] but the President and the Cabinet, immediately after the departure of the dispatch of the 13th of October, that is to say, several weeks before the assembling of the Mexican Congress, had also adopted his view, that henceforth operations should be mainly confined to the preservation of what had been won.

After the capture of Matamoras, and before definite plans had been adopted for further operations Taylor, had complained that more troops (volunteers) had been sent to him than he could employ, or support, without impairing his effectiveness in the field. Now, he replied to Marcy's proposal of the 22nd of September, to move simultaneously against San Luis Potosi and Tampico, that his force would not suffice even for one of the two expeditions, and he advised the "adoption of a defensive line, in view of the

[1] Ibid., p. 355.

[2] The dispatch in which Marcy communicated this news to him was written two days before the capitulation of Monterey, and did not, therefore, reach him till some weeks after that event.

difficulties and expense attending a movement into the heart of the country, and particularly in view of the unsettled and revolutionary character of the Mexican government."[1] This report crossed a dispatch of Marcy's, of the 22nd of October, in which he recalled the instructions of the 22nd of September, because the change of government in Mexico made it necessary to abandon the hope, previously cherished, that the northern provinces could be detached, or that they would at least remain neutral, and it therefore appeared dangerous to remove still further from the base of operations with so small an army. Taylor was to confine himself to securing his position at Monterey, and to preventing, by his demonstrations, the Mexican troops from being transferred to another part of the theater of war. He was, however, to detach 4,000 men to take Vera Cruz in conjunction with the fleet; but the administration would give up even this if he thought it would endanger his safety.

The next dispatch from Marcy to Taylor, of which we have any knowledge, is dated the 25th of November. The scene has again completely changed. In the course of two months the weather vane of the administration has turned to every point of the compass. At the beginning of November Marcy had declined the volunteer regiments offered to him. Now, since the instructions of the 22nd of October had been in view, the possibility that Taylor would be unable to spare the troops required for the expedition against Vera Cruz, and his answer had not yet arrived,[2] it is clear that the determination to limit, or even wholly to suspend, offensive operations, had only become firmer in the interim. When Benton arrived at Washing-

[1] Oct. 15th. Ibid., p. 353.

[2] His dispatch of the 15th of October did not reach Washington till the 20th of November.

ton, some time before the beginning of the session of Congress, the President astonished him with the news, that he should henceforth employ against Mexico the policy of "masterly inactivity" which Calhoun had recommended in the Oregon question. Four pages of the draught of a message, which he gave the Senator for perusal, were devoted to the support of this proposition, that they ought now to rest content with guarding the acquisitions already made, until Mexico should have become ripe for a peace. Benton succeeded in convincing the President that this was a most unhappy thought, since the genius of the American people required energetic action, and the Spaniards had proved against the Moors that no people on the globe could equal them in tenacity and endurance. The ministers, however, clung to their plan and could not be made to see their error, when Benton, at the invitation of the President, demonstrated its heinousness to them in a cabinet council. But they were finally forced to yield, as Polk would not let his mind be changed again. One concession only was made to Marcy's vanity, instead of the ten volunteer regiments, which Benton had declared necessary, the President requested only nine.[1] The message represented it as a matter of course that the war was to be vigorously continued, and the people would have probably thought it a silly invention and calumny, if they had been told what the document originally contained. Calhoun, however, who had known it, but who had not been informed of the change, opposed long and obstinately the idea of a "defensive line." The half pitying, half contemptuous jests at his blind, impracticable idealism, in which the Democrats so freely indulged on this account, would have perhaps been more sparingly dealt out to him

[1] Benton, Thirty Years View, II., pp. 693, 694.

had it been dreamed that they should properly have also borne the address of the President and cabinet.

These new decisions were attended with very unpleasant consequences for Polk as party leader, however certain it was, that, from the unbiased standpoint of the facts, they deserved the preference over the singular plan of conducting on the defensive the second phase of an offensive war. Winfield Scott, who, as an older major general, was Taylor's superior in the military hierarchy, had repeatedly requested to be allowed to repair to the theater of war in order to take the chief command of the main army in the field against Mexico. Since there was no question of his capacity, the President's refusal was explained by the fact that Scott had been mentioned as a possible Whig candidate at the next Presidential election. Now (on the 18th of November) he received orders to take command of the expedition against Vera Cruz to which the leading part would henceforth fall, since from that place a march upon the enemy's capital was planned. On the 25th of November, he notified Taylor that he must take from him, "most of the gallant officers and men, regulars and volunteers."[1] Now as the public after the victories of Palo Alto, Resaca de la Palma, and Monterey regarded Taylor as a general of the first rank, it saw an undeserved slight in thus entrusting to another the completion of the work which he had so gloriously begun. It, therefore, attributed this step to party interests, since Taylor was now spoken of as the next presidential candidate of the Whigs much more loudly and in wider circles than Scott had been before.[2] Public opinion was probably not in error, but the reckoning of the administration

[1] Exec. Doc., 30th Congr., 1st Sess., Vol. VII., No. 60, p. 373.

[2] Cong. Globe, 29th Congr., 2nd Sess., p. 523, and Ibid., 30th Congr., 1st Sess., p. 414.

might easily prove false. Such "unfairness" had in the past often recommended its object to popular favor more effectually than the most glowing eulogies of friends. And it was, furthermore, very questionable whether the party interests would be served by offering a second general of the opposition an opportunity to cover himself with glory, for the laurels which Taylor had won could surely not be taken from him.

Unquestionably it was not merely well grounded military considerations, but also largely motives of this character that determined the President, on the 29th of December, to recommend Congress to appoint a "General" above all "Major Generals" for the duration of the war, and to give him supreme command over all the forces in the field.[1] It was generally understood that Benton was intended for this place. His qualifications for it consisted in the military knowledge he had acquired in youth as a Militia officer, his nomination as first lieutenant in the army in the second war against England which, however, was ended before he reached the Canadian boundary, his experience as Chairman of the Committee on Military Affairs, and a plan of the war which he had now drawn up. This might suffice to give him the character of a military authority in the Senate chamber, but we can well understand that it was asked whether these qualities would have moved the President to prefer him to professionally trained generals who had been tried in the field, if he had not possessed the additional merit of being a Democrat, and, in spite of a certain independence, one of the main pillars of the administration. Since the arrogant self-conscious Senator, whose habitual tone was one of gruff infallibility enjoyed no very great popularity among his colleagues,

[1] Statesm.'s Man., III., p. 1648.

personal motives united with military and party considerations to make the majority of the Senate hostile to the project of the President. Taylor and Scott continued to be the leading generals of the war.

Thus, even from considerations of party, the administration was growing more and more anxious to bring Mexico to a peace at the earliest day, and, if possible, not by lead and steel but by gold. In this desire the administration was at one with the opposition, and the granting of the money which the President asked for the furthering of eventual peace negotiations accordingly met with no obstacles. Nevertheless, the contest on the "three million bill" was so obstinate and hot that the session may very properly be named after it. But the question involved in this embittered struggle was not the three millions, but the terms of peace, and that too, wholly without reference to Mexico's probable feeling or action in the matter. About their power there was no dispute, the only question was what should they will. The President with cold calculation had brought on a war of conquest, and the people without any deep spontaneous enthusiasm had approved of it as a war of conquest. Now, on the other hand, when the conquests had exceeded the desires of the most ambitious, every day unchained new passions which, however, were not turned upon the foe but spent their fury in their own camp. All wished peace, but it became clearer every hour that peace meant an internal contest of convictions and interests such as the Union had never yet had to undergo. Here party against party, there party associates opposed to each other, and here again the most irreconcilable enemies in closest alliance against the most tried friends. So raged the contest in a chaotic confusion of which the pen even of a master hand could outline only an imperfect sketch, not so much in spite of, as precisely

on account of, the fact that, the last detail stands out in such dazzling prominence and forms an essential portion of the entire picture.

In the House of Representatives a northern Democrat Preston King, of New York, on the 4th of January, 1847, asked leave to bring in a bill placing at the President's disposal three million dollars for the object indicated in the message, at the same time, however, excluding slavery from all territories to be acquired by the war. In the Senate the Committee on Foreign Affairs introduced a bill of like contents without any such clause, but a southern Whig, Berrien, of Georgia, immediately moved to attach to it a proviso in which was declared: "the war with Mexico ought not to be prosecuted by this Government with any view to the dismemberment of that Republic, or to the acquisition by conquest of any portion of her territory." In these motions we see expressed all the opposing aims which the little word "peace" brought into such violent collision, that the turmoil of battle on the distant fields of Mexico sank into utter insignificance compared with the bloodless contest in the Capitol at Washington. In Polk's case the old saying was again verified: he who sows the wind will reap the whirlwind.

This message contained the first open admission, that, as far as it depended on the will of the President, the cession of extensive territories by Mexico was the first condition of a termination of the war. It was of no practical significance that these acquisitions were to be made, not under the name of conquests, but under the title of indemnities. The simple fact that an acquisition of territory was to be made could not but throw the Union into convulsions, since not a square mile of territory could be acquired towards which the Union stood simply as a Union, and not rather as a Federal State split into two

geographical divisions, whose interests in the most essential point were diametrically opposed to each other. With any other nation in the world the sentence would have simply been: the defeated enemy must make cessions of territory; but in the United States, whose position in history is unique, owing to their internal division by two opposing principles, this sentence could not be uttered without drawing after it the question: in favor of which section?

We have seen that Giddings, on the very first day, answered this question by saying that the war had been begun with the sole object of extending the domain of slavery. The radical wing of the Democratic party of the south soon openly avowed that it was in fact a "southern war."[1] Slavery must have room, said the *Mobile Herald;* not on the climate, but on the density of the population depends the remunerativeness of slavery.[2] The *Federal Union* and the *Charleston Courier* declared, that by the conquest of Mexican territory the south secured forever its supremacy in the Union.[3]

[1] The *Charleston Patriot* writes: "We trust that our southern Representatives will remember that this is a southern war." Jay, Review of the Mexican War, p. 182.

[2] "The natural tendency of the slaves under our humane policy is to increase. The effect follows that if we have no outlet for them, no soil to put them on, they will be huddled within the extreme southern limits of the Union. * * * These evils may be avoided by taking new territory in the direction of Mexico. The profitable existence of slavery is by no means incompatible with a more temperate region, but it is incompatible with a very dense population. We need plenty of soil to render it profitable." l. c. Mangum also asks: "And are the slaves to be always confined to their prison States?"

[3] "The Whigs of the north opposed the war, because its legitimate effect is, as they contend, the extension of southern territory, and of southern slavery. It is true, this is a war in which the south is more immediately interested. * * * Let the south now be true to herself, and the days of her vassalage are gone, and gone forever."

This was the prevailing view in the south, but the dissenting minority was by no means small. The southern Whigs in Congress, with here and there an exception in each House, were decidedly opposed to all acquisition of territory,[1] just because, in agreement with Calhoun, they foresaw the most disastrous consequences to the slave-holding interests in the pursuance of the path entered upon by the annexation of Texas. Berrien declared that he had made his motion with a view to the peculiar interests of the south.[2] Reverdy Johnson, Mangum, Badger, Morehead, Stephens, Gentry, and others, either expressly concurred in this view, or placed themselves on the more general patriotic standpoint and demanded the abandonment of all views of conquest, because this was the only way to avoid agitation of the slavery question, the consequences of which would be incalculable. Waddy Thompson, who knew Mexico better than any man in the United States, at a speech in Greenville, South Carolina, expressed his conviction that the south, that is, the slave-holders, would commit political suicide if they favored the acquisition of Mexican territory, since this territory could

"Every battle fought in Mexico, and every dollar spent there, but insures the acquisition of territory which must widen the field of southern enterprise and power in the future. And the final result will be to readjust the whole balance of power in the Confederacy so as to give us control over the operations of the Government in all time to come. If the south be but true to themselves, the day of our suffering and depression is gone, and gone forever." Congr. Globe, 29th Congr., 2d Sess., p. 364.

[1] The American Review, Sept., 1848, p. 234.

[2] "I say, in my humble judgment, and speaking as a southern Senator representing a southern State, that the duty of the south—the interests of the south—the safety of the south—demands that we should oppose ourselves to any and every acquisition of territory." Congr. Globe, 29th Congr., 2d Sess., p. 330.

never be won for slavery, whatever might be the fate of the Wilmot proviso in Congress.[1]

Well founded as these warnings proved, it was inevitable that they should be spoken to the winds. It is as easy to bid a ball that has flown from the mouth of the gun to stop in its flight, and return on its path, as to terminate a successful war of conquest by a voluntary surrender of all conquests, because it has been found out that the spoil will be a source of dissension at home. It is true a large number of free states, and among them some of the most powerful, protested against all conquest;[2] but Seward was, nevertheless, right when he, Whig that he was, declared, even before the beginning of the war, that the people were filled with an irresistible passion for extending the boundaries of the Union.[3] Outside of Con-

[1] "I do not express an opinion lightly formed, but one upon which I would stake my existence, that, whether the principle of the Wilmot proviso be enacted by Congress or not, slavery never will exist in any State which may be hereafter formed on the Rio Grande. In the minority, as we now are, and the majority against us fearfully increasing, great is the responsibility of that statesman of the south who lends his influence to the acquisition of more territory in which, by no possiblity, can slavery exist. We have already in the northwest a territory, from which the Indian population is annually receding, sufficient for ten or twelve new States of average size, and all of these will be of necessity non-slaveholding States. There is an annual immigration to our country of nearly as many foreigners, adult males, as the whole voting population of South Carolina. All of these, almost without an exception, settle in the non-slaveholding States. With Oregon and California we shall have room for eight or ten more, quite enough to abolish slavery by an amendment to the Constitution; yet, in the face of these facts, we see southern men madly rushing upon destiny by the acquisition of another cordon of free States—for such they will be—beyond the Rio Grande." *Greenville Mountaineer*, Oct. 15, 1847. Niles' Reg., LXXIII., p. 136.

[2] Congr. Globe, 29th Congr., 2d Sess., p. 555.

[3] March 31, 1846, he writes: "I abhor war as I detest slavery. I would not give one human life for all the continents that remain to be annexed, but I cannot exclude the conviction that the popular passion

gress the Whigs were not so unanimous and so decided in their opposition to all territorial acquisitions as inside, and the Democrats, in whose hands power lay, and whose work the war was, could only regard as absurd a summons to offer to the people, as its only results, the war expenses and the bloody graves in Mexico. So certain were they of having the great majority of the people on their side in this question, that they declared that no treaty of peace could be ratified which did not at least provide for the cession of New Mexico and California by way of indemnity;[1] and individuals were found who had the courage to say in so many words, that the war certainly was, and ought to be, a war of conquest.[2]

Long and violent as were the contests on the question whether Mexico should be forced to cede land, the only question in reality still open was to which section of the Union the territory to be acquired was to fall. The whole future of the Union might depend on the decision of this question, and under its weight the ties of party, ordinarily so strong, snapped like brittle threads of glass. Some southern representatives spoke at first as though the malicious Brinkerhoff had caused all the mischief by inducing Wilmot, who had had no clear conception of the significance of his act, to make his fatal motion. They, however, soon allowed this absurdity to be forgotten.

for territorial aggrandizement is irresistible. Prudence, justice, cowardice, may check it for a season, but it will gain strength by its subjugation. * * * It behooves us, then, to qualify ourselves for our mission. We must dare our destiny." Seward's Works. III., p. 409.

[1] Congr. Globe, 29th Congr., 2d Sess., pp. 23, 306, 328, and App. p. 79.

[2] "Was this to be a war of conquest? He answered, yes! Trusting in Heaven, and the valor of their arms, this should be a war of conquest." Bedinger, of Virginia, Jan. 6, 1847. Congr. Globe, 29th Congr., 2d Sess., p. 126.

From the very first days of the new session, the south could not escape the conviction that neither Brinkerhoff nor Wilmot was the real originator of the proviso, but the *vox populi* of the north, and that it was not the politicians who had carried the people along with them, but, on the contrary, the people who were urging on the politicians with a force that could not be resisted. Gordon, a Democratic representative of New York, said, on the 24th of December, that the great majority of the people was irrevocably determined not only to make permanent acquisitions of New Mexico and California, but to make of these regions "free territory;"[1] and the second statement was as true as the first. One free state after another instructed its senators and requested its representatives to vote for the Wilmot proviso, which, on the 8th of February, was again introduced by its original mover as an amendment to the three million bill. Senator Dix, a devoted Democratic partisan, and withal, an honorable, patriotic man, called attention to the fact that the Legislature of New York had passed the resolutions in question almost unanimously, and in the tone of an honest friend he warned the south not to close its eyes to such signs of the times.[2] Giddings thought he could hope for the passage of the proviso at the next session in case it did not go through in this, since public opinion in the north was pronouncing itself more and more decisively; and with exultation he pointed to the fact that, for the first time, Whigs and Democrats united, stood shoulder to shoulder, for the sacred cause of human rights.[3] Chase looked forward to the future with greater confidence, because, although the "pro slavery Democracy" had prevailed in New Hamp-

[1] Ibid., App. p. 53.
[2] John A. Dix, Speeches, I., pp. 186, 187.
[3] Giddings, Speeches, pp. 203, 204.

shire, it had been forced to declare in favor of the Wilmot proviso.[1] Caleb B. Smith, of Indiana, asserted that not a single northern representative would have the audacity to advocate the further extension of slavery,[2] and Calhoun admitted that in truth all parties in the north appeared to be united in the resolve to exclude slavery from the territory to be acquired.[3]

On the other side, the south, without distinction of party, was equally united against the Wilmot proviso. Smith, therefore, regarded a solution of the problem as impossible. Neither side, he thought, would give way, and the proviso, of which, for the rest, he fully approved, was at bottom a mere abstraction, and its acceptance would offer absolutely no guaranty for the accomplishment of its object. The inhabitants of the conquered district would have an incontrovertible right to decide for themselves whether slavery should be allowed or prohibited there, and if this region should be settled from the southern states, the allowing of slavery would follow as a matter of course. Still less was it possible by means of a treaty of peace to assure to this territory a definite character in this regard, since no treaty that took a definite position on either side of the slavery question could obtain the number of votes necessary for a ratification. The final conclusion from this line of reasoning naturally was, that, for good or evil, it was necessary to act as if the question did not exist.

Perhaps the time was to come when the majority of the

[1] Chase to J. P. Hale, May 12, 1847. Warden, Private Life and Public Services of S. P. Chase p. 313.

[2] Congr. Globe, 29th Congr., 2d Sess., p. 124.

[3] Calhoun's Works, IV., p. 323. The Legislatures of Vermont, New York, Pennsylvania, Rhode Island, Ohio, New Hampshire, New Jersey, Michigan, Massachusetts, and Connecticut demanded the exclusion of slavery as a condition precedent to all territorial acquisition. Delaware, too, instructed its senators to vote in this sense.

people would "resolve" to do away with the slavery question by this ostrich policy and the cry of *vogue la galère*. As yet, however, this height of political wisdom had not been attained, because, often as the assertion was repeated, no one believed that the Wilmot proviso really was an abstraction without practical significance. The contest had to be fought out on this line until a decision was reached, or until it was demonstrated that no decision could be reached in this way. Before this there was no possible basis, new or old, even for a compromise.

Calhoun informed the Senate, that, deeply as he had always regretted the abandonment in the Missouri compromise of the purely constitutional standpoint with regard to the south,[1] yet, for the sake of peace, he had caused a motion to be made in the House of Representatives, to divide the new territory by the Missouri line; now, however, that the motion had been rejected and on its renewal (February 15) by a northern representative (Douglas) had been again voted down by a majority of 309 to 82,[2] he was forced to fall back upon the principles of the constitution.[3] These principles he now formulated, according to his old habit, in "resolutions," the substance of which may be summed up in the following propositions: The territories are the common property of the separate states which form the Union;—Congress can pass no law directly or indirectly impairing the equal rights of any of the states with regard to the territories;—a law that prevents the citizens of certain states from establishing themselves with their property in the territories would have this effect;—no conditions can rightfully be attached to the ad-

[1] He had not always thought so. See the American Review, Sept., 1849, p. 315; Mem. of J. Q. Adams, V., pp. 5–12.

[2] Congr. Globe, 29th Congr., 2nd Sess., p. 424

[3] Calh.'s Works, IV., pp. 346, 347.

mission of a state into the Union other than that it must have a republican form of government.[1]

An exhaustive historical and constitutional criticism of these propositions would require a recapitulation of the entire history of the slavery question and of state sovereignity. It will suffice here to indicate briefly a few facts which have not been touched upon before.

Maryland had rendered inestimable service to the Union by the far-seeing persistency with which, in the negotiations preceding the acceptance of the Articles of Confederation, she had contended that the territories should be placed under the authority of the Federal Government. After a long struggle she had carried through her demand and had thereby secured a real national basis for the confederation.[2] The territories had thus never been properly held in common by the different states that formed the Union, but, from the moment when they ceased to belong to the individual states, they had become the property of the Federal Union. Thus, at the moment the Confederation sprang into existence, the Union possessed an extended territorial domain, in no portion of which, however, was slavery allowed. It follows that if slaves were "property" that could not rightfully be excluded from the territories, the Constitution had entered upon its existence with a monstrous violation of the constitution. It was not the states, but the inhabitants of the states, regarded as a part of the inhabitants of the United States, that could lay claim to equal rights in the territories, that is, to rights exercisible in the territories; and even if the territories had been property held in common by the separate states, individual citizens could not have taken with

[1] Calhoun's Works, IV., pp. 348, 349.

[2] See the excellent monograph of H. B. Adams. Maryland's Influence in Founding a National Commonwealth. Baltimore, 1877.

them into the territories rights which belonged to them solely in their capacity of citizens of their respective states, since a state cannot extend its municipal laws beyond its own boundaries as an equipment for its own subjects on their travels. No state can transfer to all its subjects the rights which belong to it as a state. Whoever established himself in a territory was there not as a citizen of the state to which he had formerly belonged, but simply as an inhabitant of the territory, in which it was impossible that the municipal laws of all the several states should simultaneously prevail. Congress was the sole source of law for the territory, and the laws of Congress had repeatedly contained direct provisions concerning slavery, without the authority of Congress thereto even having been questioned from any side. It had, indeed, long been maintained that the constitution in speaking of the territories used the word "possession" only and the sense of "object of value," but Congress had not committed the absurdity of treating them as politically a *terra nullius*, which could not be made the object of a deliberate policy determined by the interests of the state, as a whole.

Calhoun's doctrine was logically, historically, and constitutionally absolutely untenable. Only one argument of real weight could be adduced in its favor. The Supreme Court had twice pronounced that the constitution recognized slaves as property.[1] If this was correct, it would certainly be hard to justify the exclusion of slavery from the territories, for it could hardly be seriously maintained that the power to "make all necessary rules and regulations" could be made to include the prescribing to citizens what species of property they might take with them into

[1] Prigg v. Pennsylvania, Peters' Rep., XVI., p. 611 Curtis, XIV., p. 420; Jones v. Van Zandt, Howard's Rep., V., p. 229, Curtis, XVI., p. 373.

the territories. But although in the first case the judgment of the court was delivered by Story, who certainly cannot be taxed with excessive partiality for the south, and whose authority as a jurist cannot easily be impugned, I feel justified in declaring most distinctly that this proposition is absolutely without foundation. I lay no stress here on the fact that the constitution always speaks of the slaves as "persons." [1] Proof of the negative was not, and is not in general, to be required, but the Supreme Court was bound to bring proof of its assertion; since the constitution does not contain the word slave and in the passages in which slaves must be understood by the "persons" of which it speaks, neither the word property nor any similar expression occurs. All that could be adduced in favor of the decision of the court was the obligation to deliver fugitive slaves upon request. The same obligation existed, however, with regard to fugitives from justice, and it was universally acknowledged that apprentices were included under "persons bound to labor or service in any state." It followed, that, if this provision was a recognition of slaves as property, the same held good of apprentices. The constitution considered in various ways the fact that in several of the states slavery existed by law, and it provided that in a specified case this fact must be recognized in a definite positive way throughout the territory of the Union. That this was not a recognition of property in slaves is clear from the fact, that otherwise the free states could not have regarded as *eo ipso* free, and so protected, a slave voluntarily brought within their jurisdiction by his master, since, according to the constitution, no one could

[1] "The term 'slave' is not used in the constitution, and if 'person' means 'slave,' then the constitution treats slaves as persons, and not as property, and it acts upon them as persons and not as property." Lemmon v. People, 20 N. Y. (6 Smith), 624.

be deprived of his property without "due process of law."[1] But their right to do this had always been recognized,[2] and, according to the Supreme Court the slave was freed, not by the law of nature or the rights of man, but by the law prevailing in the state in question.[3] This was an open recognition of the fact that it belonged solely to the individual states to determine whether certain persons were to be "held to service or labor" that is, were to be "property," and that their decision had no validity beyond the boundaries of their own domain. Thus, the constitution had not recognized property in slaves although it had recognized the fact, that, by the laws of certain states, they were property. But it was logically, constitutionally, and politically unjustifiable to pronounce the latter equivalent to the former. The most favorable interpretation for slavery authorized by the language of the constitution was, that it took no position whatever on the question of the legal status of slaves in the Union as such.

Nevertheless, in order to rightly appreciate the significance of Calhoun's resolutions it is not sufficient to subject them to a theoretic criticism on the principles of constitutional law. They were a political manifesto, setting up a revolutionary programme of fearfully far-reaching conse-

[1] In this are included the forms prescribed by the sixth amendment. James v. Reynolds, 2 Tex. 251; Jones v. Montes, 15 Tex. 353. "This means, and has always been held to mean, that the right of a citizen to his property * * * could be taken away only upon an open, public, and fair trial before a judicial tribunal, according to the forms prescribed by the law of the land for the investigation of such subjects." J. S. Black, Claim of Reside. Opin. of the Attorn. Gen., IX., p. 209.

[2] See the decisions in Wheeler's Law of Slavery, pp. 335–338.

[3] In Strader, Gorman, Armstrong v. Graham, Howard's Rep., X., p. 82, Seqq., Curtis, XVIII., p. 305, Seqq., and in Scott v. Sandford, Howard's Rep., XIX., p. 396, Seqq.

quences. A few days later, he uttered the gloomy, prophetic words that were cited at the close of the last chapter. He himself now opened the second volume of the history of the Union under the constitution, and wrote as its first sentence the declaration that the entire policy of the federal government hitherto on the slavery question had been unconstitutional. The originator of the constitution had called it a compromise, and "compromise" had been the wavering magnetic needle which had hitherto guided the ship of the Union in the slavery question. Calhoun now drew a heavy line through this word. Time had worked with tremendous power against slavery. The superiority of the free states in population, wealth and general intelligence was ever increasing and making itself more strongly felt. The abolitionist spirit—as Calhoun had once expressed himself—was gaining an ever firmer foothold in the schools, the pulpit and the press, and even where the old bluntness of moral feeling with regard to slavery still prevailed, the arrogant domination of the slavocrats began to awaken discontent. Steamships, railroads, telegraphs, and steam industries gave a mighty impulse to the economical development of the north, and tended to disintegrate the economical, political and social relations of the south, because they intensified the opposition of interests between the slave holders and the rest of the free population, and called forth here and there a vivacity in the exchange of ideas and an energy in the movements of trade, which, pitiable as they were compared with those of the free states, were more than was compatible with slaveholding, a system foredoomed to isolation by its immobility and by all its tendencies hostile to civilization. The border states were awakening to the knowledge that slavery was a heavy clog on their progress, the old Atlantic states saw their life forces continually drained

from them by the emigration of their young aristocracy to the Mississippi states and of the more active elements of the lower strata of society to the free west, the prosperity of the planter states was being deeply undermined by a system of credit and reckless exhaustion of the soil, the perception of the necessity of entering energetically into the movements of modern civilization, and the equal necessity of sealing themselves hermetically against these influences, grew stronger every day, and the views of the leading men as to the measures required for the protection and the furtherance of the slaveholding interest became more and more divergent.[1] And now Calhoun declared the era of compromises closed, which had enabled the south, in the face of the tendencies of the age and in despite of the real distribution of power, to maintain its dominating position in the Union. He disputed the validity of the principle of majority rule, as far as the extension of the domain of slavery was concerned. It was admitted that in the "sovereign" states slavery was the creature of the municipal law, but every individual slaveholder must have the right to introduce it into the territories. He denied to the Union the right of having a will on a question, on the decision of which depended the entire character of the civilization of the territories, and, since these must eventually become states, ultimately of the Union itself. According to this new doctrine, the Union was irrevocably committed to slavery.

Was it possible that the free states would ever submit to this claim? Calhoun himself had answered this question, when he said that both parties there united in refusing the south any part in the territories to be acquired from Mexico.[2] But if the claim could not be maintained,

[1] Proof of these assertions will be furnished hereafter.

[2] Calhoun's Works, IV., p. 382.

what other effect could its assertion have than to complete the consideration of the two geographical sections on the slavery question, and thereby break the Union in twain.

Benton at once pronounced the resolutions a firebrand, and when Calhoun, highly incensed, remarked, in a tone of reproach, that he had hoped the Senator from Missouri, as a representative of a slave state, would support its principles, he replied that in the future as in the past he would be found in the right place—on the side of the Union. In a speech delivered outside of Congress, some time after, Benton justified in detail these sharp reproofs.[1] However much inclined he was to view all Calhoun's words and actions in the darkest light, he did not, in this case, exaggerate on the main point, because no exaggeration was possible; with full consciousness, and after cool reflection, Calhoun called upon the south to declare its account with the north closed, and to bring the latter face to face with the alternative of unconditional submission on the slavery question, or a dissolution of the Union. But Benton's charge that Calhoun actually desired the separation of the south from the Union was, even now, wholly without justification. This was, indeed, the inevitable tendency of

[1] "They [the resolutions] go the precise length of the northern abolitionists, and with the same practical consequence, only in a reversed form. * * * The first effect of this new slavery creed * * * would be to establish a new political test for trying the orthodoxy of all candidates for the presidency; and as no northern man could stand such a test at home, the whole of them would be knocked in the head, so far as the south was concerned, at a single lick. The next effect of these resolutions, if adopted, in the non-slaveholding states, would be to put an end to the present political division of parties, and to substitute a new party in the south, [with its antagonist in the north,] bounded by geographical lines and founded on the sole principle of slavery propagandism. The third effect of these resolutions would be that which is stated hypothetically, on their face, namely, the subversion of the Union." Niles' Reg., LXXII., p. 223. See, also, Ibid., p. 225.

his policy, but not only did the thought of this possibility still fill him with pain, but he did not fail to perceive what weighty political considerations opposed the resort to this last heroic means. But neither consideration could make him waver in his course, because he was firmly convinced that the free states would regard no concession too great, in order to avoid this extremity.

Not only the south, but also a large part of the Democratic party of the north, afterwards laid upon the Republicans the moral responsibility of the civil war, because they were a geographical party based on the slavery question. The accusers forgot how firmly the south had always held together, whenever the slave holding interest was at stake, and that it was Calhoun who originated the idea of making the slavery question a basis for the construction of a party. Not only was this the consequence of the doctrines laid down in those resolutions, but he formally proclaimed it clearly and distinctly formulated, and backed with all the authority of his name, as the only programme whose adoption could save the south from ruin if it remained in the Union. The slave states, he declared, in a speech delivered at Charleston on the ninth of March, 1847, must take the abolitionists as their model: as the latter made the combating of slavery the main question, so must they its defense, making it depend solely on the position adopted towards this institution, who was to be regarded as friend or foe.[1] It was true, that in this respect, the abolitionists had set the slaveholders the example, but Calhoun gave an unwarrantable extension to the term, when he asserted that they had thereby acquired an influence in party politics wholly disproportionate to their numbers. The abolitionists stood outside of political par-

[1] Calhn.'s Works, IV., pp. 394, 395

ties, while those radical opponents of slavery, who as a distinct political party, contended for the maintenance of their principles, had, for the most part, by no means wholly thrown off their old party garb in other matters, and, what was most important of all, they did not make the main point of their programme the maintenance of a contest with slavery all along the line, but only the resistance to any further extension of the slavery domain. But it was just here that lay that which was essentially new and fearfully significant in Calhoun's summons to the south to make the slaveholding interest absolutely, that is, the slavery question in all its aspects and relations, the pole star of its policy and thereby to force this issue upon the north as the question on which party lines must there be drawn.[1]

In a letter to a member of the legislature of Alabama,[2] he dwelt on the necessity of delaying no longer but of forcing the issue on the north at once. The moral and

[1] "But, if we should act as we ought—if we, by our promptitude, energy, and unanimity, prove that we stand ready to defend our rights, and to maintain our perfect equality, as members of the Union, be the consequences what they may; and that the immediate and necessary effect of courting abolition votes, by either party, would be to lose ours, a very different result would certainly follow. That large portion of non-slaveholding states, who, although they consider slavery as an evil, are not disposed to violate the constitution, and much less to endanger its overthrow, and with it the Union itself, would take sides with us against our assailants: while the sound portion, who are already with us, would rally to the rescue. The necessary effect would be, that the party leaders and their followers, who expect to secure the presidential election, by the aid of the abolitionists, seeing their hopes blasted by the loss of our votes, would drop their courtship, and leave the party, reduced to insignificance, with scorn. The end would be, should we act in the manner indicated, the rally of a new party in the non-slaveholding states, more powerful than either of the old, who, on this great question, would be faithful to all the compromises and obligations of the constitution." Ibid., pp. 390, 391.

[2] Printed in Benton, Thirty Years' View, II., pp. 698–700.

political power of the south, instead of growing, was diminishing. It would, therefore, be greatly to be regretted if the contest on the Wilmot proviso should result in another compromise, nay, more, the defeat of the measure, "without meeting the danger in its whole length and breadth," would be a misfortune. The question was, how this could be accomplished without having recourse to a dissolution of the Union, which was not to be thought of until all other means had been tried. There remained but one means that promised success. As the north did not fulfill its constitutional obligations with regard to slavery, so let the south refuse to fulfill the provisions of the constitution that favored the north. It must close its harbors to the ships of the free states, and at the same time allow commerce to go on, on the Mississippi and on the railroads, in order to preserve the friendship of the northwest and inflict its blows on the northeastern states alone. A convention of the slave states must be held to win over all the coast states to this policy of refusals. If they were successful in this, the north would certainly creep to the foot of the cross, for "measureless avarice was its ruling passion."

Such a resolution, said Benton, is tantamount to a breaking up of the Union. Whether the north performed its constitutional obligations with regard to slavery or not, was a disputed question, but Calhoun admitted that his scheme of "retaliation" would deny the free states the exercise of a constitutional right, and Benton rightly pointed out that this very question had given the direct impulse, which led to the substitution of "a more perfect Union" for the insufficient confederation. Calhoun's expectation of being able to detach the northwest from the northeast, and by closing the southern ports, to force the free states to grant all the demands of the slavocracy was

an idle delusion. For the rest, however, his reasoning was correct, and neither considerations of expediency nor moral and patriotic indignation availed to shake its firm, yet simple structure. The south might yet celebrate many a triumph, although it rejected the programme of the old master of the slavocracy, but, in spite of all triumphs, every day that postponed the final decision was a loss for the south and a gain for the north. Wherever the right may lie, it is facts that will decide, Calhoun had said some years before; and now he admitted: Every day we grow weaker and our opponents stronger. Calhoun could not bring himself to draw from these two simple propositions the final, and only too evident, conclusion; but he told the south that the game was irrevocably lost, unless the north should be forced into full submission by the letter of the law, before it had sufficiently perceived the truth of these propositions to draw from them their final inference. It was a foolish delusion to think this still possible, but he was right in declaring this the only condition on which the southern states, as slave states, could safely remain in the Union. Again, the majority of his own allies accused Calhoun of stirring the fire of dissension between the south and the north in his groundless claim, or even under false pretenses of working for the disruption of the Union, and, in truth, he again broke off his argument before the final word, because he would not abandon the hope that slavery might secure itself within the Union. Calhoun fancied that the last moment had come in which it was still possible for the slavocracy to force upon the north bonds which could never be broken or cast off. But this had never lain in the power of the south, and now it had brought matters to a pass in which every struggle, and still more every success, only made the final overthrow more sure and hastened its approach. It

was only because Calhoun felt this so clearly, that he opposed the Mexican war with such violence, and, again, for this reason, his opponents were right in their assertion that his demands were violently urging on the catastrophe. This was the curse laid upon the slavocracy, that every step towards its goal was a step nearer the inevitable doom. And this curse necessarily fell with its heaviest weight on the thought and action of the man who best understood the nature of slavery, and had studied most profoundly the character of the slavocracy.

Benton triumphantly points out to his readers that Calhoun never called up his resolutions for debate, because they had been most unfavorably received by the whole Senate. But what was gained by this? The struggle for the territory to be acquired from Mexico continued, and, although Cass declared that he could not discover the faintest cloud in the sky,[1] it became every day more difficult to see when and how the contest would be terminated. In the course of the debate the Wilmot proviso, to the equal surprise of its friends and of its foes, became a weapon in the hands of the peace party. At first sight, it really seemed as if the measure might be used to force a conclusion of the war, since the north would not hear of continuing the war without it, nor the south with it.[2] In response to the repeated votes of the House of Representatives for the proviso and against the extension of the Missouri line, Calhoun, Seddon, and Leake of Virginia, Tibbets of Kentucky, Dargan of Alabama, and others, declared that the state could not be expected to commit the suicidal folly of making further exertions for the sole benefit of the north. Let those who wish peace, there-

[1] Deb. of Congr., XVI., p. 60.
[2] Calh.'s Works, IV., pp. 323, 324.

fore, said Stewart of Pennsylvania, vote for the proviso, for Polk would sooner pay Mexico to keep its territory than take it on this condition. Unfortunately, those who desired peace without conquests, or even thought such a peace possible, formed an infinitesimal minority. Butler of South Carolina compared the Union to the shepherd who caught a wolf by the ears: it was dangerous to hold on, still more dangerous to let go. The majority of the southern representatives were the less disposed to put an end to the ill feeling of the south by really carrying out the original official programme of the war—self defense, the procuring of redress and the payment of the old claims—because they were convinced that the spoils would finally have to be divided in any event. If the north is decided, said Calhoun, the south is still more decided, for it has more at stake. This confidence was only too well founded, for so it had ever been hitherto. There was, of course, no lack of threats of a disruption of the Union, but the real views, even of the most ardent spirits, found a much truer expression in the declaration of Sim of South Carolina, that there was absolutely no reason for sounding so tragic a note. We will retain the conquered territory, he said, and the part to the south of 36° 30′ will become slave territory, for we are resolved to go there with our slaves, and the north and west will not think of resisting us to the death.[1] The entire south shared this view, not excepting those who did not concur in his further assertion that the child was not yet born that would live to witness the disruption of the Union on the slavery question or for any other cause.

The south did not estimate the resolution of the north too high, but too low, but it was not deceived in its expec-

[1] Congr. Globe, 29th Congr., 2nd Sess., p. 291.

tation that the latter would make concessions; the only question was, how soon and how far it would recede. The south thought it could postpone the decision of that question if it only secured itself on the first point; and on the opposite side were found plenty of politicians who thought their abandonment of their principles was justified or excused by the fact that they left the further question open.

Chase asserts that the Wilmot proviso, on account of its Democratic origin, had been a thorn in the flesh to many northern Whigs.[1] Thus, even when the principle was unconditionally adopted with genuine, earnest conviction, men thought and felt in so petty a way that they were willing to endanger the decision of the most important national question for the sake of a subordinate, perhaps imaginary, party interest. How, then, could a steadfast maintenance of the principle be expected from those Democrats, who had only, more or less willingly, swam with the stream of public opinion. If they held firm they must renounce all hope of playing a rôle in the party, for the south was the dominating element, and would never have forgiven such "treachery." If highly cultivated and reflecting men, in honest though ill advised patriotism, allowed their views to be changed by the cry, the Union is in danger! what reliance could be placed upon the masses, who, for the most part, had as yet not even temporarily taken a decidedly hostile attitude towards slavery, and who, moreover, could be carried away by the

[1] "This [the proviso] had its origin among the Democrats, and is looked upon with no favorable eye by many leading Whigs, who, while they dare not openly take ground against it, are willing to have it smothered by the cry of no territory, which is the merest delusion, and the most palpable delusion in the world." S. P. Chase to J. P. Hale, May 12, 1847. Warden, Private Life and Public Services of S. P. Chase, p. 314.

demagogues much easier than the mass of the Whigs. It might not be possible to bring all who had warned the south that they would serve her no longer, to utter the *pater peccavi;* but it was very possible that the great majority would now crowd around the standard of the slavocracy with greater devotion, nay, enthusiasm, than ever. Save the Union! The response which this cry called forth in every heart was strong enough to destroy in innumerable minds all comprehension of the question whether continued concession to the slavocracy was the right way to save the Union; and more than enough could be said for the claims of the south to constitute in the eyes of the masses, only too ready to be convinced, an irrefragable proof of the constitutionality of those claims. To insist on the Wilmot proviso, therefore, would not only be to cross the policy of the administration in a most important measure, approved by the whole party, but it would be to split the party and join the seceding or expelled minority.

The avowed demagogues and unprincipled egotists were not the only ones among the Democratic politicians who could not make up their minds to so great a sacrifice. Thought and feeling were still so firmly bound by the old party ties, the real nature of the contest was still so little understood, the preservation of peace still seemed so all important, so much could still be said in favor of a postponement of the decision, that an escape was anxiously sought by many better men, in whom something of statesmanlike endowment was joined to skill in the technical trade of politics, and some true patriotism mingled with selfish ambition. "The Wilmot proviso," wrote Cass on the 19th of February, 1847, "will not pass the Senate. It would be death to the war—death to all hopes of getting an acre of territory—death to the administration, and

death to the Democratic party."[1] The same Cass, in August, 1846, had expressed his lively regret that the ill-timed length of Davis' speech had prevented him from giving his vote for the proviso; some months later he had thought it inopportune to urge the proviso just then, but had still given the assurance that his vote could be counted on.[2] At last he had voted against it, and declared that it would be time enough to decide the question when the territory had been acquired,[3] and, finally, he pronounced the proviso undoubtedly unconstitutional.[4]

The other side could hardly be blamed for thinking that such transformations of ugly caterpillars into gorgeous butterflies had some connection with the desire of finding grace in the eyes of the south. But even if it was all done to save the country, it was assuredly hard to change one's skin so often in so short a time. At any rate, it was easier than to accomplish the whole metamorphosis in a single day. If this had been required, the crisis would presumably have been much more violent, but would also have passed off more quickly. But the south gave those who had strayed from the right path time to find their way back. She could let the Wilmot proviso fall through without distinctly avowing it. It was not rejected, but only not passed; that is, the three million bill was passed without the proviso. In the Senate, it is true, it was, on the 1st of March, laid on the table by a vote of 31 to 21;[5] but according to the official interpretation this only signified that it was not to be appended to

[1] Jay, Review of the Mexican War, p. 190.

[2] Rathbun, of New York, in the Utica convention, Feb. 16, 1848. Gardiner, the Great Issue, p. 94.

[3] Congr. Globe, 29th Congr., 2d Sess., p. 549.

[4] Ibid., 31st Congr., 1st Sess., p. 398.

[5] Ibid., 29th Congr., 2d Sess., p. 555.

this bill. Dickinson justified his voting against the proviso by saying that, according to the resolutions of the Legislature of New York, this "fundamental condition" was to be established only in the event of the acquisition of territory; now, no acquisitions of territory were made by the three million bill, and therefore the measure need not be burdened by such an appendage.[1] The direction of the wind must have already greatly changed, if his constituents allowed themselves to be put off by this gross sophism. For the Senate, when it rejected by a vote of 29 to 34 Berrien's amendment against territorial acquisitions,[2] declared, by a formal vote, that territorial acquisitions were to be made in the peace, whose conclusion was to be furthered by the bill.

In this form, the bill was returned to the House, which had passed the Wilmot proviso[3] by a vote of 115 to 106. When Wilmot now moved it again, it was passed by the Committee of the Whole by a vote of 90 to 80, but rejected by the House by a vote of 102 to 97, and the bill was then passed by a vote of 115 to 81.[4] At the last vote on the proviso, therefore, twenty-two of those who had originally voted for it had absented themselves, and six had gone over into the opposite camp.[5] This was the sole important result of this session: it was decided that

[1] Ibid., pp. 553, 554

[2] Ibid., p. 545.

[3] Moved by Hamlin, February 15th.

[4] Congr. Globe, 29th Congr., 2d Sess., p. 573.

[5] Among the deserters was Woodworth, of New York, who attempted to justify himself by showing that even the *New York Tribune* had counseled the Whigs in case of extremity to vote for the bill even without the proviso, because: "it was a plank to drowning men." Moreover, the proviso contained "a principle so deeply rooted among the free States as to require no such expression." Ibid., Append., p. 439. Thus the word uttered by Adams in good faith had become the forged pass by which the faint-hearted accomplished their desertion.

territory was to be acquired by the peace, but the decision of the further question, how this territory should, or rather must, be disposed of with regard to slavery was postponed. The 29th Congress had determined to leave as an inheritance to the 30th Congress the contest under which the foundations of the Union had begun to tremble. Would time cool the passions that had been excited, or stir them to still greater intensity? It was no longer possible to avoid the rock on which, according to Jefferson's prophecy, the ship of the Union was destined to be dashed to pieces. Calhoun's "abstraction" had become fearful realities, around which the contest must continue to rage till a final decision should be reached.

Webster threw the entire responsibility for this upon the eleven northern Senators who had voted against Berrien's amendment. If they had joined with the Whigs, the internal peace would have been established upon a foundation of rock, for so overwhelming a majority against all territorial extension would have been looked upon as a final decision and the apple of discord would thus have been forever removed.[1]

Words of golden wisdom, said many a good patriot. A proof that this most shining light of New England was not made for times "in which the hearts of men are deeply tried," is the judgment of history. Was the democratic Republic voluntarily to renounce forever all further acquisitions of territory in order to escape the decision of the question whether they should belong to freedom or to slavery? Was this nation, the wonder-state of the western hemisphere, to relinquish an essential part of its mission in the history of the world, because it feared destruction if it should dare to defy the veto of the slavoc-

[1] Works, V., p. 258, Seqq.

racy? Has any nation in all history ever made so disgraceful an avowal of political and moral impotence, before the entire world?[1] And was this what was expected of this people, whose trust in themselves was great enough to undertake the construction of a road to Olympus or to Hades if they thought it to their advantage? Webster was right in saying: "We appear to be rushing upon perils headlong and with our eyes wide open."[2] But the impulse to this course was not merely an unbridled ambition, with criminal thoughtlessness leaving the future to deal as best it might with the immediate and threatening consequences of the step. It was an expression of the first thought and feeling, that the interest of the Republic, which had to determine her policy, must first be independently established, and only secondarily be scrutinized from the narrow standpoint of sectional jealousies. And it was also an expression of the conviction that the Union was already strong enough to weather even this storm. But if this conviction was correct, the south, which was chiefly responsible for the results of the session, had only inflicted another blow upon itself, even though the struggle for the acquired territory should end in a new overthrow of the north. The Union was strengthened, for the interests in its preservation had become greater, and, since the day must at last come when the south would attempt to destroy it, every strengthening of the Union turned a new and heavy gun against the fortunes of the slavocracy.

[1] The *Washington Union* wrote: "To refuse all acquisition of territory from Mexico * * * would be worse than folly. It would be a confession of the weakness of our political institutions. It would both be a treacherous sacrifice to the spirit of abolitionism, and would manifest a cowardly fear of the strength of our Government." Niles' Reg., LXXII., p. 407.

[2] Works, V., p. 261

CHAPTER VII.

Progress and End of the Mexican War.

Polk had certainly longed with impatience for the close of the 29th Congress, although he could not expect from its succesor equal readiness in complying with his wishes. The next nine months placed the Mexican question exclusively in his own hands, unless he should think it advisable or necessary to summon the legislators again to Washington at an earlier date. The interval was long enough to admit of the hope that at its end a treaty of peace could be laid before the Senate, and of the acceptance of which he could count with certainty, even though it might give rise to many objections.

If this hope should be realized, the President, from his own standpoint, could look forward with composure to the moment when, at the opening of the 30th Congress the long restrained flood of criticisms and denunciations should pour itself out upon his Mexican policy. The troops accomplished their portion of the task better than was expected. The exaggerated praises lavished on their discipline and humanity by the Democratic party leaders, including the President himself, were, to be sure, not wholly deserved. Of this the official and private correspondence of the officers affords abundant proof. An army composed mainly of volunteer regiments will rarely distinguish itself in this regard, and never in a war of conquests, which for the most part invites to the standards only ambitious youths, adventurers and idlers eager for

plunder. It may occur in a real national war which kindles patriotism to the intensest heat and summons the best men of the nation from every stratum of society to follow the beat of the drum, although even then it is only after the war has continued long enough to transform the armed population into an army. The Mexican war, however, was only a war of politicians and officers, a war which the people followed, to be sure, with the liveliest interest, but still at bottom with the feelings of a spectator interested in the progress, and particularly in the result of the bloody game. Furthermore, the remoteness of the spectator from the scene of action made it impossible to follow minutely every detail. In the enemy's country, extended, thinly settled and connected with the rest of the civilized world by few and weak ties, the troops were wholly removed from the accustomed control of a public opinion that observes directly and passes judgment daily, in the United States the strongest, though not always a sufficient restraint. The insolence of the victors met at every point the strongest temptations. Provocation of every kind incited them to unmeasured retaliation, and in point of humanity the volunteers did not always find the best pattern in the soldiers of the regular army, since the latter were men who had been enlisted and stationed for the most part in the half civilized territories. In these circumstances, we must only wonder that the opponents of the war could not produce a much larger list of infractions of discipline, cruelties and monstrosities of every kind, and that they were forced to have recourse to glowing pictures of the honors inherent in the nature of war in order to find sufficient material for their homilies and calls to repentance. And this is the more to be wondered at, because in that which forms the alpha and omega of every army, the very highest officers were by no means

exemplary models for their subordinates. The two generals were continually wrangling with their superiors at Washington. They not only complained, but they accused; not only criticised, but called to account; they not only felt that they were criminally neglected, but they believed that they were deliberately sacrificed. Scott, whose excessive vanity more than made up for the greater military coarseness and the somewhat narrow range of ideas of Taylor, involved himself, in addition, with his subordinate officers in the most unpleasant and even disgusting quarrels which led to protracted proceedings in courts martial. These indications suffice to show that the Mexican war exposed some of the weakest points in the military power and resources of the United States.[1] Nevertheless, it was by no means to the weakness of the enemy alone that the Americans owed their uninterrupted and brilliant successes. The laurels which they gathered in abundance on many bloody battlefields were well earned. In spite of many errors and oversights which have been properly stigmatized by their own writers on war, Scott and Taylor and the other generals proved themselves well schooled and capable leaders. The officers of middle and lower grades were in general still better qualified for the lesser tasks. The men manifested wonderful endurance and unyielding valor, and, with few exceptions, the untrained volunteers stood as firm as veterans under the hottest fire. Such was their consciousness of their individual superiority that soon no demands upon them seemed to them too high, and they forced fortune to remain true to their banners. The pauses in their victorious career were not caused by the paucity

[1] It was reserved for the civil war to reveal in all their grandeur the elements of strength more or less peculiar to the democratic republic. In the Mexican war, successfully as it was conducted, little or nothing of this appeared.

of their numbers nor by their exhaustion, but were chargable to the diplomacy of the government and of the generals.

Taylor closed the first period of the war and made a broad opening for the second by his defensive victory at Buena Vista, on the 22nd and 23rd of February, 1847. Santa Anna had hurled himself upon him with an enormously superior force, which his admirable energy had collected by the utmost exertions in order to rouse the enthusiasm of the Mexicans by a decisive victory and to stimulate them to exertions commensurate with the danger. He met, however, with so bloody a repulse from Taylor, that we must regard it as an achievement worthy of all recognition that he was so soon able to take the field again against Scott, who in the meantime had opened the final decisive campaign from Vera Cruz.

Vera Cruz and San Juan D'Ulloa had fallen on the 29th of March. Buchanan hoped that the day of Buena Vista and this new blow would have broken the pride of Mexico. On the 22d of February Monasterio replied to his peace proposals of the 18th of February, that Mexico must consider the raising of the blockade of her ports and the complete evacuation of her territories as the first preliminary condition of any negotiations for a peace.[1] To this Buchanan replied, on the 15th of April, that the President would not renew his offer to negotiate till he was in a position to expect that it would be accepted. At the same time, nevertheless, he announced that N. P. Trist, chief clerk of the Department of State, would be sent to Scott's headquarters to receive any offers Mexico might make, and that he was clothed with full powers to conclude a peace.[2] On that same day Trist received his

[1] Exec. Doc., 30th Congr., 1st Sess., No. 1, p. 37.
[2] Ibid., pp. 38, 40.

instructions.[1] The fundamental idea of the project of peace that accompanied them, was the cession of New Mexico and the two Californias, and a grant of a right of way through the Isthmus of Tehuantepec, in return for the assumption of the Mexican debts, so often referred to, and the payment, by way of purchase or indemnification, of a sum of money not to exceed thirty million dollars. The acquisition of Lower California and the right of way were declared desirable, but not indispensable. According to what could be obtained from Mexico on these two points, the maximum of the sum to be paid was to be reduced to twenty or to fifteen million dollars. The cession of New Mexico and Upper California, however, is designated as *conditio sine qua non*, and the "ultimatum."

Before Trist reached his destination, the Mexicans had met with another serious defeat. Scott had entered upon his march inland, and on the 18th and 19th of April, had won a brilliant victory at Cerro Gordo. On the 7th of May, he received at Jalapa the dispatches of which Trist was the bearer, but it was not till the 12th of June that the Mexican government was informed from Pueblo of the arrival of a negotiator with full powers. The Mexicans, accordingly, had now evidently far better reasons for regarding a continuance of the war hopeless than two months before, but they, nevertheless, seemed in no hurry to grasp the hand extended to them. The feeling in the White House must have been, indeed, hopeful, if, after Monarterio's more than foolish reply of the 22d of February, the delusion could be cherished, that the bitter experiences of Buena Vista and Vera Cruz would be sufficient to convert the Mexicans to a cool, rational policy.

[1] Exec. Doc., 30th Congr., 1st Sess., No. 69, pp. 43, 51.

It was only after the Americans at Contreras (Aug. 19) and Churubusco (Aug. 20), after a long and bloody contest, had again remained in possession of the field, and Santa Anna had succeeded in bringing Scott into an armistice (Aug. 23), which gave him the opportunity to make some preparations for the defense of the capital—now seriously threatened—that the voice of diplomacy could again make itself heard. And even then it immediately became evident that, as Polk very mildly expressed it, "there was too much reason to believe" that the negotiations were, on the part of Mexico, "insincere."[1] Buchanan more sharply but truly said, that the terms of peace proposed by Mexico were a mere mockery.[2] The cession of Upper California as far as 37° north lat., was the only sacrifice Mexico was ready to make. On the other hand, she said nothing about the old debt claims and demanded indemnity for her citizens, and restoration of the territory between the Nueces and the Rio Grande. Trist received orders to return to Washington, and when his own reports confirmed the news, at first regarded as a malicious calumny, that he had promised to transmit to his Government a project of peace with the last named condition, and to request Scott to grant a continuance of the armistice until an answer could be received, the order of recall was, on the 25th of October, repeated with the liveliest expression of dissatisfaction.

Trist's readiness to make concessions on just this point was, indeed, extraordinary, since it was the occupation of this "portion of Texas" that had led to the war, and its defense had been, according to Polk, his imperative duty. It appears in a still stranger light, however, when we con-

[1] Statesm.'s Man., III., p. 1658.

[2] Mr. Buchanan to Mr. Trist, Oct. 6, 1847. Exec. Doc., 30th Congr., 1st Sess., No. 69, p. 54.

trast it with the stiff, uncompromising rejection of Mexico's other request, that the territories to be ceded should be secured against the introduction of slavery. He pronounced all reference to this question in a treaty of peace impossible, and declared that if he were offered a territory of tenfold value and covered with gold a foot deep, on this condition, he could not think of even repeating the proposition at Washington.[1] The President and Buchanan appear to have concurred fully in these views; at least I cannot find in the official correspondence the slightest censure of Trist's position with regard to that demand of the Mexican negotiators.

[1] N. P. Trist to J. Buchanan, Tacubaya, Sept. 4, 1847: "Among the points which came under discussion was the exclusion of slavery from all territory which should pass from Mexico. In the course of their (the commissioners) remarks on the subject I was told that if it were proposed to the people of the United States to part with a portion of their territory, in order that the inquisition should be therein established, the proposal could not excite stronger feelings of abhorrence than those awakened in Mexico by the prospect of the introduction of slavery in any territory parted with by her. Our conversation on this topic was perfectly frank, and no less friendly; and the more effective upon their minds, inasmuch as I was enabled to say with perfect security, that although their impressions respecting the practical fact of slavery, as it existed in the United States, were, I had no doubt, entirely erroneous; yet there was probably no difference between my individual views and sentiments on slavery, considered in itself, and those which they entertained. I concluded by assuring them that the bare mention of the subject in any treaty to which the United States were a party, was an absolute impossibility; that no President of the United States would dare to present any such treaty to the Senate; and that if it were in their power to offer me the whole territory described in our project (sic), increased tenfold in value, and, in addition to that, covered a foot thick all over with pure gold, upon the single condition that slavery should be excluded therefrom, I could not entertain the offer for a moment, nor think even of communicating it to Washington. The matter ended in their being fully satisfied that this topic was not one to be touched." Sen. Doc., 30th Congr., 1st Sess., Vol. VII., No. 52, p. 199.

Scott's eyes had gradually been opened to the fact that, in the convention of the 23d of August, he had concluded a bargain of which the Mexicans alone reaped all the advantage. No sooner, therefore, had Trist by his rejection of the Mexican counter-proposals broken off the negotiations, than he gave notice of the termination of the armistice. On the 8th of September he won a new victory at Molino del Rey, on the 13th Chapultepec was stormed, and on the 14th Mexico itself was taken.

So far were the events which were taking place in Mexico known at Washington when the 30th Congress assembled for its first session. The army had surpassed the most enthusiastic expectations, and yet the President could not greet Congress as he had hoped. The message was not conceived in the frank, triumphant style that might have been expected by one who considered only the magnitude of the military successes achieved. Polk had not yet got wholly beyond the point where he thought it necessary to defend himself and his policy, and to argue at length about the part, as well as about the proper course to be adopted for the future.

This was undoubtedly to be ascribed in part to the fact that the Whigs now had a majority in the House of Representatives. Their majority, it is true, was very small. Winthrop, of Massachusetts, had been chosen speaker only by 110 votes out of 218.[1] But the matter assumed an altogether different aspect, when the 30th Congress was compared with the 29th. In the latter the Democrats had had 142 seats, the Whigs but 75, while now 116 Whigs were opposed to 108 Democrats,[2] and both elements had to be equally taken into account in order, from the mutual

[1] Congr. Globe, 30th Congr., p. 2.

[2] There were also 6 Natives and 3 vacancies. Fall of 1846.

relation of the parties, to draw proper conclusions with regard to the temporary situation. The administration party, in spite of the success with which the war had been conducted from the beginning, had passed from an overwhelming majority to a minority, a fact which, soon as it was forgotten, deserves to be counted among the most meritorious proofs of the sound and honorable feeling of the American people. The congressional election had been an emphatic condemnation of the reservations, falsehoods, and incessant intrigues which had marked the entire foreign policy of the administration. As a matter of course, this feeling found distinct, emphatic expression in Congress. The establishment of provisional governments in a portion of the conquered district, and the impositions of constitutions in the rest, gave rise to the most serious complaints. Polk thought he could dismiss these complaints, off-hand, by the incontrovertible assertion that the right to do both belonged to the victor by international law. There was no attempt to deny that the exercise of this right belonged to him as commander-in-chief of the armed forces. But it was quite another question whether he had been justified in exercising it to the extent, and in the manner, that he had done. He was not reproached with having transgressed the limits of international law with regard to Mexico, but he was charged with encroachments on the constitutional powers of Congress. Whether, and to what extent, this charge was well founded, is of too little significance for general constitutional history to make it requisite for me to enter into a discussion of this paragraph of the difficult and still extremely dark chapter on the "war powers" of the President. I must, therefore, confine myself to stating my own personal opinion, that, while the arguments of the Whigs were on some points irrefutable, they sought on the whole to prove too much, their prime

object being, not so much to preserve the constitution intact, as to make as much party capital as possible.[1] On the 31st of January, the House even passed a resolution accusing Polk of having begun the war needlessly and unconstitutionally, and yet among the majority were found the names of quite a number of gentlemen, who, as members of the previous Congress, had voted for the war bill with its lying preamble.

But these were mere needle-pricks that might annoy and inflict temporary pain but could have no consequences of any moment. Polk had no reason to fear that the Whigs would actually try to fetter him in his war policy, although, to be sure, his partisans could no longer avail themselves of the expeditious method of the previous question, but were obliged to carry through his measures by hard, disagreeable work. The Whig majority was too small to venture on assuming the responsibility of hampering, in the slightest degree, the operations at the seat of war. Moreover, the wishes of a considerable portion of them lay by no means in this direction. They had been well content to salve their consciences by the resolution above

[1] The points which were especially objectionable in the provisional governments have been already indicated. The following passage, from the report of Walker, Secretary of the Navy, may serve to show how extended was Polk's conception of "constitutions:" "These contributions consist * * * second, by duties upon imports, as a military contribution; third, by enforcing the Mexican duties upon exports; fourth, by directing the seizure and appropriation to the support of the war and the army of all the internal revenues of Mexico, except transit duties, whether assessed by the general government of Mexico or any department, city, or town thereof." The Whigs, therefore, said that the President had not only caused the general contributions to be collected, but he had imposed and levied taxes, for which he had no more authority in Mexico than the United States, and he had expended the proceeds of these taxes without any appropriation, and without any control on the part of Congress, which he had absolutely no right to do.

referred to, but they were now as little disposed as the greediest Democrats to let New Mexico and Upper California go,[1] and they were the less willing to expose themselves to the charge of lack of patriotism, because they hoped that their party, by means of the war, would regain possession of the White House. Thus, for carrying out the fundamental conception of his Mexican policy, Polk, still disposed of a reliable majority, although a part of them wore the uniform of the opposing camp, and followed his banners with mutinous tongues. On this principal question, the minority in the House of Representatives was formed, not by the Democrats, but by those Whigs who still refused to hear of acquisitions of territory, and who thought the termination of the war in some other way both desirable and possible.

The revolution in party relations was, therefore, rather annoying and troublesome to the administration than really dangerous. Another difficulty pressed much more heavily upon it. The stars and stripes now waved above the "Halls of the Montezumas," and nevertheless Polk felt less confidence now than at the close of the first weeks of the war, that Mexico would accept his ultimatum, which every victory had made more and more a *conditio sine qua non* for him. But if Mexico should still remain obstinate —what then? Although she was no longer in a condition to raise an army that could even attempt to measure itself with the Americans in the open field, nevertheless the purely military question gave rise to serious anxiety. The war had already cost in the neighborhood of a hundred millions, the public debt had been increased by about twenty-eight millions, the message announced the neces-

[1] Dayton said in the Senate: "If the question of no territory was to be made the test, there would be an end to the Whig party before the end of the year." Deb. of Congr., XVI., p. 186.

sity of a new loan,[1] and asked in addition for a tax on tea and coffee. These burdens already began to grow irksome to the people, and when there should be no longer brilliant victories to reckon against them, they would certainly not be borne with patience. If the war should be continued, it was probable that the toils and hardships of the soldiers, and the expenses of the war would have to increase in proportion as its results diminished and grew less strikingly evident. The smallness of the American army had already, on repeated occasions, made itself painfully felt, and yet both Taylor and Scott had hitherto operated on definite lines and with compact masses of troops. If they should be forced now against their will to win new victories and extend their conquests, a progressive division of their forces would be inevitable, and with every forward step they would become more and more deeply involved in a wearing and fruitless guerilla warfare. Thus, although such a thing as a Mexican army no longer existed, it was quite in accordance with the situation that Polk held out no prospect of any alleviation of the burdens of the war, but on the contrary, asked for an augmentation of the army by ten regiments. Yet what possible object was there to be attained by further exertions and sacrifices, when for more than a year they had held in their hands all they intended to retain? The irony of fate had so disposed things that the useless falsehood, with which Polk had entered upon the war, had now become a bitter truth, and he was now actually compelled to carry on a great war with the sole object of forcing a peace from a vanquished enemy. Nor was it by any means unlikely that the more completely he crushed this

[1] Jay, Review of the Mexican War, p. 241. According to Stephens, the war expenses amounted to $120,000,000 Congr. Globe, 31st Congr., 1st Sess., p. 1189.

enemy the further he would find himself from his goal. Even the capture of the capital had led to a complete dissolution of the government, and Scott's good offices had been required to establish a sort of provisional government. And this the victors needed more than the vanquished, who, from familiarity with anarchy, would have seen nothing very dreadful in each "state," nay, in each city, conducting itself for a time as an independent and self-sufficing political community. The further subjugation of Mexico meant an intensification of this state of anarchy, and if the anarchy reached such a point that government and congress became mere meaningless words, the conclusion of a treaty of peace would become an impossibility. In that event, were they to return to Calhoun's advice, and, withdrawing to a "defensive line," to defend it, until in the course of time some unforseen contingency should induce Mexico to recognize it as a boundary. The message emphatically opposed this suggestion, and surely with good reason. But if they were unwilling to do this, it was evident that but one course remained. Polk declared it openly: In that case we must continue to occupy Mexico with our troops.[1]

[1] "With a people distracted and divided by contending factions, and a government subject to constant changes by successive revolutions, the continued successes of our arms may fail to secure a satisfactory peace. In such event, it may become proper for our commanding generals in the field to give encouragement and assurances of protection to the friends of peace in Mexico in the establishment and maintenance of a free republican government of their own choice, able and willing to conclude a peace which would be just to them, and secure to us the indemnity we demand. This may become the only mode of obtaining such a peace. * * * If, after affording this encouragement and protection, and after all the persevering and sincere efforts we have made from the moment Mexico commenced the war, and prior to that time, to adjust our differences with her, we shall ultimately fail, then we shall have exhausted all honorable means in

A momentous declaration. Polk had once stated that the nature of American institutions offered the world ample security that the United States would never pursue a policy of aggressive conquest. Notwithstanding the commentary that he had himself given on this proposition, it contained a kernel of significant truth. The nature of their institutions absolutely forbade the United States to hold in violent subjection, under the iron hand of conquest, a realm of the extent of Mexico for any length of time. This would very soon have become so perfectly clear to the people, that they would either have driven the originator and guiding spirit of the war in shame and disgrace from his office and dignity, and have reduced all these conditions of peace to the utmost moderation, or they would have proceeded to a formal and complete incorporation of Mexico with the Union. The latter course, considering the character of the Mexican population and the semi-tropical nature of the country, would have been simply suicidal. Sooner or later the free states, in order to preserve their own vitality, would have had to resort to a disruption of the Union, and the south, under the combined influence of slavery and Mexican anarchy, would have degenerated into a still more pitiable caricature—I will not say of a republic, but of a civilized state of any kind—than that which Mexico alone had represented for so many years.

The slaveholder Polk would, of course, never have real-

pursuit of peace, and must continue to occupy her country with our troops, taking the full measure of indemnity into our own hands, and must enforce the terms which our honor demands." Statesman's Man., III., pp. 1665, 1666. Buchanan developed a similar idea in a letter to a meeting at Philadelphia, but clothed the conclusion of his argument in a more significant and ominous form: "Then we must fulfill the destiny which Providence may have in store for both countries." Congr. Globe, 30th Congr., 1st Sess., App. p. 197.

ized that the last measure he had to propose must immediately lead to such results; but he did not fail to perceive that it was exceedingly dangerous, and he, therefore, sincerely hoped that it would not become necessary to have recourse to it. But it was now shown how little the Americans are protected, either by nature or by their institutions, against the intoxicating effects of powder fumes and the scent of blood. Distinguished officers, holding high positions like General Quitman, urged the President to make up his mind to a permanent military occupation of Mexico.[1] A man of as wide influence as Cass went so far as to speak openly of the conquest of all Mexico, although he added, indeed, that he was not desirious of retaining the entire country.[2] Foote, of Mississippi, demonstrated that the denationalization of Mexico would have none of the evil consequences predicted by Calhoun, if the country should be left for a time in the preparatory territorial condition.[3] Dickinson, of New York, making

[1] "On his arrival at Washington General Quitman urged upon the President and Secretary of War the permanent military occupation of Mexico, and showed that it might be held without expense to the United States, and with but temporary opposition from the Mexican people." Claiborne, Life and Correspondence of J. A. Quitman, II., p. 7. See, also, his letter of March 8, 1848, to J. A. Knox, of Virginia, Ibid., p. 14. Ripley, The War with Mexico, II., p. 526, avers that a part of the extremists had urged the reckless prosecution of the war only in order to force the United States to retain all Mexico. Hodgson, The Cradle of the Confederacy, pp. 251, 252, says: "At least two-fifths of all the branches of government, including very nearly a majority of the members of Congress and the executive, were anxious for annexation to the United States. Men in and out of office of great influence, approached General Scott privately and offered to place at his disposal one million of dollars if he would remain and govern Mexico."

[2] Congr. Globe, 30th Congr., 1st Sess., p. 215.

[3] Ibid., App. p. 128. "I feel bound to add, that without the Isthmus of Tehuantepec, which can never be fully and availably under our control, except as an incident to the annexation of Mexico low

short work of the matter with his tongue, extended the United States over the whole of North America.[1] If senators of national reputation gave themselves up unreservedly to such dreams, we need not wonder that third and fourth rate politicians, and the irresponsible "statesmen" of the press, threw all sober reflection to the winds, and that there were found among the masses enough ears to listen to the trumpet tones by which the stump speakers sought to madden to frenzy the national tendency to seek aggrandizement.[2] The agitation was violent enough to justify the most serious anxiety. It was rumored that the question of "annexation *en gros*" had already been considered in the cabinet, and that even there the measure found zealous advocates.[3]

enough down to embrace it, we can hardly calculate upon retaining the permanent possession either of California or Oregon." Ibid., p. 129.

[1] At a banquet in celebration of the anniversary of the battle of New Orleans, he offered the following toast: "A more perfect Union, embracing the whole of the North American continent." Ibid., p. 120.

[2] "There was at that time [at the beginning of the session] a party scattered over every portion of the country in favor of conquering the whole of Mexico. To prove that such was the case, it is only necessary to refer to the proceedings of numerous large public meetings, to declarations repeatedly made in the public journals, and to the opinions expressed by officers of the army, and individuals of standing and influence, to say nothing of declarations made here and in the other House of Congress." Calhoun's Works, IV., p. 429. Cf. Colton, The Last Seven Years of the Life of Henry Clay, p. 66.

[3] The *Baltimore American* writes even in October, 1847: "There are indications of some significance, that the idea of occupying the whole of Mexico, with a view to its incorporation into the body of this republic, is entertained in high official quarters. The thing is intimated, with more or less distinctness, in letters from Washington; it is said that the President and his cabinet are, in fact, discussing the subject at this time, and that Mr. Walker is known to favor the plan of wholesale occupancy and annexation." Niles' Reg., LXXIII., p. 113. Cabell said, in the House of Representatives: "In most of the Democratic meetings throughout the country we find the idea of the

Under these circumstances it was most fortunate for the United States that Trist made himself guilty of a monstrous insubordination, of which it is hard to say whether it was to be referred rather to vanity and *naïve* audacity or to a far-seeing and lofty patriotism, that does not shrink even from the greatest personal responsibility when the weal of the nation is at stake. On the 27th of November, he announced to Buchanan that he had received, on the 16th, the letters of recall of the 6th and 25th of October. After seeking to disarm the reproofs of the Secretary of State, he went on to say that he had not officially informed the Mexican government of his recall, in order to avoid completely discouraging the feeble peace party, but that he would avail himself of the first opportunity presented by Scott's movements to return to Vera Cruz. On the 4th of December, however, he wrote to a friend at Queretaro that he had just come to a final determination to remain at his post and not to return to the United States without a treaty of peace, provided the Mexican government now felt itself strong enough to conclude a treaty on the basis of the boundary first proposed by himself. This resolution he carried into effect, and on the 2nd of February, 1848, he was enabled to announce to Buchanan, that a treaty had been signed at Guadeloupe

acquisition of the whole of Mexico prominent. At the famous dinner in the 'Temple of Democracy,' in this city, in January last (1848), in which were convened the Vice-President of the United States and all the high priests of Democracy, this was the theme of discourse, and the sentiment was received with universal enthusiasm. We hear daily from distinguished Democratic Senators and members of this House, that the absorption of Mexico is our 'inevitable destiny.' The cabalistic phrase of 'the whole or none' has been dropped, and they now 'go for all contiguous territory.' It is understood that the most talented and influential member of Mr. Polk's cabinet is an open advocate of this measure." Congr. Globe, 30th Congr., 1st Sess., p. 428.

Hidalgo, which ceded to the United States New Mexico and Upper California in return for a payment of fifteen million dollars.

Although Polk was under no obligation to recognize this instrument at all as a public document, he, nevertheless, sent it to the Senate on the 22d of February and requested its ratification. On the next day—John Quincy Adams, who on the 21st had had a stroke of apoplexy in his seat in the House of Representatives, died on the same day in the Speaker's room—the Senate entered upon the discussion of the treaty. Three long and anxious weeks wore away before a decision could be reached. The opposition belonged to both parties and to all the different sections of the country and was, therefore, determined by the most various motives. A portion of the Whigs still strenuously resisted all acquisitions of territory, and with few additional votes they would have succeeded in rejecting the articles concerning the cession, in which case the majority would indubitably have refused to ratify the entire treaty. And on the final vote (March 16) the opposition lacked but three votes of a victory.[1] Webster complained the more bitterly of this result, because the three, and even the four, votes might have been furnished them by the New England States. It was the Whigs that had enabled Polk to dismiss the Oregon question satisfactorily, and the Whigs he now had to thank for the termination of the Mexican war. It cannot be maintained that their vote merits equal recognition in the two cases, but he who with the aid of history can form his judgment not merely with the help of the next two, but with that of the next twenty or thirty years, will be forced to admit that those who turned the scale in favor of a termination of the

[1] Webster's Works, II., pp. 266, 267.

war on the terms offered, were more far-seeing, or were guided by a truer instinct. The statesman has to deal, not with what is desirable, but with hard stubborn facts. Webster's policy would have led, not to peace without territorial acquisitions, but to a prolongation of the war, and thus to incomparably greater annexations of which the fatal results could not be foretold, although, with the exception of individual politicians, the giddy desire for the incorporation of all Mexico was disappearing with every day.[1] An immense majority of the people desired peace—not, of course, without some compensation. As far as concerned New Mexico and Upper California, the views which, as early as the first year of the war, had everywhere prevailed had become still more firmly fixed, although at the same time, for the sake of peace there was a readiness to pay Mexico a good price for this region, however little such a course might harmonize with the theories of the origin and objects of the war. This was the meaning of the loud and universal cry for peace, under pressure of which the Senate ratified the treaty.[2]

If, however, we look only to the immediate future, we are forced to admit that Webster and his associates were neither guided by an unpatriotic narrow spirit of party nor frightened by imaginary terrors. "Peace! peace!" was the almost unanimous cry; but the answer came back

[1] "But I have no fear—none in the world—that we shall ever return to a 'vigorous prosecution of the war.' That day is gone. You cannot vitalize the policy. It is buried. The country would consider it the greatest misfortune that could befall us if we were to reöpen and renew the Mexican war. The tide of public opinion is running with irresistible force against it." Calhoun's Works, IV., p. 442.

[2] "I believe, sir, that the press on all sides, with very few exceptions, perhaps, uniting for once, have for the last three weeks pressed the Senate, by their daily councils and advice, to take the treaty, whatever it may be." Webster's Works, V., p. 266.

in the words of the Bible, "Yet there is no peace." On the 30th of May, the ratifications of the treaty were exchanged at Queretaro and on the day before, a message of the President, inviting Congress to consider the establishment of a territorial government in Oregon, had given the signal for a resumption of wild struggle over the spoils.

CHAPTER XIII.

The Struggle for Oregon and the Presidential Election of 1848.

The representatives of the west had accused their southern colleagues of "Punic faith," because, after securing Texas, they had not stood firm for the maintenance of all Oregon. The latter had indignantly repelled the charge, but while their lips protested they violated the compact still more grossly on another point and this time without their previous justification of controlling political considerations.

The 29th Congress, in its last session, had considered a bill for the organization of Oregon as a territory. The House of Representatives had passed the bill and determined, by a vote of 129 to 69, that, in accordance with the provisional laws, voted by the settlers of their own motion, slavery should be prohibited in the territory. The judiciary committee of the Senate, to which the bill had been referred, moved to strike out this provision. As this motion would have led to interminable negotiations, the Senate resolved to lay the bill upon the table, and Oregon had to look out for itself for another year as best it might. Benton affirmed that it might thank Calhoun for this, who, he said, had been the real originator of the amendment, while the services of the judiciary committee had been purely auxilliary.[1] However that might be, the fate of the bill in the Senate was a formal proclamation on

[1] Th. H. Benton to the people of Oregon, March, 1847. Niles' Reg., LXXII., p. 148.

the part of the slavocracy that it was, by no means inclined, without a further contest, to abandon Oregon to the north as a compensation for Texas.

Nothing had happened since to lead the south to alter its attitude for tactical reasons, and other considerations did not exist for it where the interest of the slaveholders was involved. When the question now came up to be dealt with again, the south did not leave the north in doubt a moment that it was resolved on a serious contest, and had no thought of abandoning the claims it had been pleased to set up, without a suitable compensation.

Benton, who did not understand the character and the far-reaching importance of the slavery question nearly as well as the Calhounites and the young "fire eaters," sprung from this school, but who, for that very reason, was a more sincere patriot and more disposed to give the north, too, its rights, had the year before written to the settlers of Oregon with regard to that amendment of the judiciary committee: "Oregon is not the object. The most rabid propagandist of slavery cannot expect to plant it on the shores of the Pacific in the latitude of Wisconsin and the Lake of the Woods. A home agitation for election and disunion purposes is all that is intended by thrusting this firebrand question into your bill." Dix now disputed the position that the climatic conditions, of themselves, would afford an absolute guaranty against the introduction of slavery, and showed conclusively by past experience that so long as the population had not reached a certain degree of density slaves would be carried everywhere where it was not prohibited by law.[1] But Benton's statement passed almost for an axiomatic truth, and the south openly acknowledged that its "peculiar institution" could

[1] Speeches, I., p. 373.

never dispute Oregon with free labor, which was unquestionably true, if by it we are to understand that slavery could never become the predominating interest there. This open avowal, however, proved of itself that the object of the south was by no means a mere agitation for election purposes, still less to take a step in the direction of a disruption of the Union.

In the House of Representatives, many southern representatives declared, that, on account of the slavery question, they wished to see the organization of Oregon as a territory postponed; it would be best for the present to limit themselves to providing protection for the settlers against the Indians. This, taken in connection with their previous avowal, was a frank announcement that they wished to use Oregon to force a bargain on the north. Since the south would have paid only what it never could have acquired, the trade would inevitably have proved a very advantageous one for it. But what it expected in return was so much, that it never could have brought the north, by open methods, to such a "compromise," with the offer of such a price. The extremists were, therefore, very careful not to speak directly of a compromise. Although they knew as well as the moderates that this was the utmost that was attainable at the time, they represented their willingness to enter into any agreement at all as a great concession which, with great difficulty, and in spite of the reproaches of their consciences, they had allowed their unselfish patriotism to wring from their incontestable rights. In order to bring to a safer and easier conclusion the question of the day, and to secure the future for themselves, they proclaimed a principle with which they were prepared, they said, to stand or fall. In truth, it was not Oregon that was at stake, but first New Mexico

and California, and secondly, all territorial acquisitions that the future might bring.

Benton's triumphant exultation that Calhoun had not called up his resolutions for discussion at the last session had been premature and idle. A strong party now subscribed to the doctrine of those resolutions, which thereby ceased to be in and of themselves mere "abstractions." In the Senate the contest turned on the twelfth section of the bill[1] which indirectly prohibited slavery by granting to the inhabitants all the "rights, privileges, and immunities" once secured to the territory of Iowa, among which the ordinance of 1787 was included, and further by recognizing the validity of the provisional laws which expressly forbade slavery. Since there were no slaves in Oregon and the settlers were unanimously opposed to it, and lastly since Oregon at the time of the Missouri compromise had belonged to the United States, and its southern boundary lay beyond the 42° north latitude, the north was certainly justified in expecting that, considering the previous history of the territorial question with regard to slavery, no words would be wasted on this point. Immediately upon the reading of the President's message, and before any bill had been introduced, Venable, of North Carolina, had declared in the House of Representatives that he would defend with his heart's blood the principle, that the citizens of the slave States had the right to go with their property to any part of the territorial domain, however acquired, and to find there the protection promised by the constitution. In the Senate Bagby of Alabama, hastened to deny Congress the right to exclude slavery from any territory. In so doing he was only subscribing to the doctrines which had already been formally laid down in

[1] It is printed in full in Debates of Congress, XVI., p. 211.

resolutions by the legislature of his State and which had called forth from the *Charleston Mercury* the praise that the Legislature had "constructed that platform on which all slaveholding States will stand."[1] There was unquestionably a prospect of the fulfillment of the prophecy, since the Legislature of Virginia, also, had already solemnly adopted the same principles,[2] and there was the greater probability of a speedy conversion of all the slave states by the apostles of this new doctrine, that already for some time, "northern men with southern principles" had been proclaiming that any action on the part of Congress with regard to slavery in the territories was impolitic or even unconstitutional.

But this very support from the north had also its dangerous aspect for the south. After what had been said in the last session by its own leaders with regard to the prevailing tone of feeling in the north, it was inconceivable that it could be the object of the most sagacious politicians of the south to offer the north a submission to be signed in blank. There was evidently some inconsistency between their theory of the non-interference of Congress and the doctrine developed in the Calhoun, Alabama and Virginia resolutions. Of this the radicals of the south were perfectly aware. Dickinson, of New York, in a long speech on the 12th of January in defense of the resolutions introduced by himself on the 15th of December, 1847, sought to prove that the principles of self-government, the spirit of the constitution, and the true interests of the Union would be best answered by leaving the regulation of all the internal affairs of the territories, including the slave question, to the territorial Legislatures.

[1] Niles' Reg., LXXIII., p. 392.

[2] See the Resolutions, Niles' Reg., LXXV., p. 73.

He went so far as to maintain that in this regard the population of a territory had the same "sovereign rights" as the States.[1] This was in a clear, distinct form the doctrine of "squatter sovereignty," which, accordingly dates back much further than is generally believed, even in the United States, and it is not Douglas, but Dickinson and Cass that have the dubious honor of having originated it. Would the objects of the south, however, be much advanced by a transference of the question from the forum of Congress to that of the territorial Legislatures, or rather, to that of the population of the territories? Bagby pronounced Dickinson's doctrine "monstrous," and the

[1] "Although the government of a territory has not the same sovereign power as the government of a State in its political relations, the people of a territory have, in all that appertains to their internal condition the same sovereign rights as the people of a State." Congr. Globe, 30th Congr., 1st Sess., p. 159. He goes on to say: "Any system which denies this [self-government] in theory or in practice, or which seeks to withhold it from the primary settlements until they shall become populous and mature States, is founded in the same system of popular distrust, by which the few have, from the earliest history of man, under the plea of necessity, been endeavoring to restrict the many in the exercise of freedom. It inculcates a system of slavery tenfold more abject than that it professes to discountenance. * * * Having vindicated for the people of territories the same rights of self-government enjoyed by every other political community, I forbear to speculate whether they will be less discreet in its exercise than would those who desire to subject them to the influence of an external government." Ibid., p. 160. Leake, of Virginia, had proclaimed the principle of squatter sovereignty as early as February 15, 1847: "They [the south] disclaimed the authority or power of this Government to interfere to any extent whatever with the rights of slave-property in any territory hereafter to be acquired. We maintain that this is a question to be left to the people of this territory to decide, and with which this Government cannot interfere." Congr. Globe, 29th Congr., 2d Sess., p. 444. When utterance was first given to the principle, I am unable to say exactly; but Dickinson and contemporaneously Cass in his Nicholson letter of Dec. 24, 1847, were the first to develop it systematically.

Charleston Mercury made the noteworthy admission, that in that case slavery would be excluded from all the territories.[1] The future, perhaps, was to fulfill this compromising prediction. Thus much, however, could already be easily shown, that the doctrine, in very truth, from whatever standpoint tested, was indeed monstrous. The most essential consideration will be discussed later; but two objections which were of themselves sufficient can be brought forward now.

Webster afterwards called attention to the fact that the free and independent voice of the territorial population in this case would be, for the most part, an illusion, inasmuch as the governor and the judges were named by the federal government, and the entire political existence of the territories had a dependent character.[2] The history of Kansas showed how statesmanlike and true this thought was.

[1] So likewise Rhett, of South Carolina, said in the House: "The Wilmot proviso in Congress is harmless compared with this doctrine; * * * not another southern state may be added to the Union." Congr. Globe, 31st Congr., 1st Sess., App., p. 658.

[2] Congr. Globe, 31st Congr., 1st Sess., p. 1121. In a letter of the 8th of April, 1854, which Grimes, as candidate for the governorship, addressed to the population of Iowa, we read: "According to the doctrine of Mr. Douglas and his obedient followers, the people of the territories are fully competent to do their own legislation, but are wholly incompetent to elect their governor, judges, and other public servants. The President has the power to appoint the governors of the territories, who, by virtue of the veto power, can control the legislation of the people. He has the power to appoint judges, who are in no degree responsible to the people, and who may be required to obey the federal authorities at the risk of being evicted from office. All the officers of the territories are to be foreign officers—appointed by a foreign authority—in no way amenable to the people, and have the power to set at defiance the popular will of the territories, and will be required to do it, when it comes in conflict with the slavery propagandists at Washington. What a commentary is here presented to the doctrine of 'squatter sovereignty!'" Salter, Life of James W. Grimes, pp. 44, 45.

Instead of a definite decision through Congress the people were presented with an underhanded game in which the President, however little inclined to do so, was obliged to play a leading part, and in which the passions which animated the contest were forced to manifest themselves in the most hateful and demoralizing way, and, not daring to venture forth to the light of day, took refuge in intrigues and were compelled to wear the mask of hypocrisy. Nothing worse, however, could befall the nation than deliberately to deceive itself as to the real nature of the internal conflict that was eating out its moral life, to conjure the contest off from its proper ground by the invocation of waxen "principles," and to continue it under a false flag, openly, with captivating, ambiguous commonplaces, secretly, by all the arts and methods of the feuds of closed cabinets, nay worse, of corridors and back stairs.

It is a great and never duly appreciated merit of Calhoun that he, like the abolitionists on the opposite side, never allowed the contest to sink into the mire of falsehood and self deception. At this time, too, he sharply cut through the deceitful web of Dickinson's sophistries. The territorial Legislature, he said, exercises all its powers solely by virtue of the law of Congress to which the territory owes its political existence. If Congress has no authority to exclude slavery from a territory, still less has the territorial Legislature, for Congress can transfer to the latter no rights it does not itself possess.[1] The right of the slaveholders to go with their slaves into every territory is subject to absolutely no limitations.

This reasoning was a complete refutation of the theory of squatter sovereignty, but the assertions on which it was

[1] So, also, Bagby. See his resolutions of the 25th and 27th of January, 1848. Congr. Globe, 30th Congr., 1st Sess., pp. 241–261.

based were as untenable as the doctrine it refuted. Miller, of New Jersey, enquired what provision of the Constitution empowered Congress to give slavery a legal existence in the territories. The south could not deduce this right from the general clause on the territories, since, on its own interpretation, this clause spoke of the territories solely as possessions, as property, and gave Congress no general legislative powers.[1] Moreover, the right to allow slavery, it could not be denied, included that to prohibit it, and Calhoun was, therefore, logically quite right in denying the one as unconditionally as the other. But, hitherto it had been a universally recognized principle, that slavery could exist only by virtue of a law. What, however, was the nature of the law that gave slavery legal existence in a territory in which, as in Oregon, it did not exist? Calhoun avoided giving a direct answer to this question. He said: "The constitution gives us the right to go with our slaves into all the territories;" but he did not say: the constitution carries slavery into the territories in the sense that it is the law which creates slavery; and yet this was an unavoidable logical consequence if that premise and

[1] The representatives of this doctrine were never able to give anything like a satisfactory answer to the question, how it could be reconciled with the following facts to which they never objected: "Without an exception, where a Governor has been appointed, Congress has always reserved his appointment to itself, or to the President. The Governor so appointed has always had a veto power over the two Houses; and Congress has always reserved to itself, or to the President, a veto power, not only over him, but over him and both the Houses besides. Congress has often interfered also with the appointment of the Upper House, leaving only the Lower House to be chosen exclusively by the people of the territory; and it has determined even for the Lower House the qualifications both of electors and of elected. Further still: the power of removing the Governor, at pleasure, has always been reserved to Congress, or to the President." Slavery, Letters and Speeches by Horace Mann, p. 19.

Calhoun's assertion were correct. Whether he felt some repugnance against viewing the constitution in this light, cannot be said; he could not maintain such a monstrous proposition, because his own associates, almost without exception, would have repelled it as an insult to the fathers of the republic, and as an absurdity—because even the most hair splitting logic could not find in the constitution the pretext of a support for it—and, lastly, because, in that case, slavery must have existed by law in all the states, inasmuch as the constitution would carry slavery with it wherever it prevailed if the legal existence of slavery in the territories was to be deduced from it in the sense above referred to.

Thus, even Calhoun's reasoning presented gaps which could not be filled, and led to a hopeless contradiction. It had, nevertheless, the merit of showing plainly the impossibility of devising any constitutional doctrine on this point that could be accepted as definitive at once by the slavocracy, and by its most devoted followers in the north. Neither party, however, was willing to admit this fact. The northern supporters of the south considered that they had solved the great problem if they could conclude with their imperious "southern brethren," an accommodation of whose fairness and constitutionality they could convince themselves and their constituents. And the majority of the leading men of the south, true to the old practice, thought it best to appear satisfied with a partial payment, which they regarded as sufficient for the present. As far as this was not self-deception or neglect to think the question through, it rested on the belief that, when the time came to demand more, they would still have ample time to bring forward their proof that the doctrine of the non-interference of Congress in the slavery question in the territories admitted of two widely differing interpreta-

tions, of which theirs alone was right. This was a fatal miscalculation. The anxious seeking of the northern Democrats for a formula which would make it possible for them to preserve their good understanding with the southern wing of the party, in appearance at least, unimpaired, led the slavocracy to think that everything was henceforth within their reach, while in fact their northern allies had, in the doctrine of squatter sovereignty, reached the furthest point to which they could induce the people to follow them. The Democratic party was henceforth divided against itself. In order to preserve its outward existence, it had become untrue to itself. The moment the opposition to the pretensions of the slavocracy should have become strong enough to make the further veiling and concealment of this internal discord impossible, the Democratic party would inevitably come to a formal and complete division. Henceforward it assumed more and more the shape of a brazen colossus with feet of clay.

Perhaps they would have been less rash and ready in involving themselves in such a network of illusions, contradictions, and self-deceptions if they had not stood on the eve of a presidential election. The territorial question would evidently have to play an important part in the election, and both parties, accordingly, tried to deal with it in their national conventions in the way that seemed to them best adapted to avoid any impairment of the prospects of success. Both subordinated to momentary party interests the greatest question of national policy, and both were severely punished for their overwise disingenuousness and petty, selfish lack of principle.

The national Democratic convention assembled at Baltimore on the 22d of May, 1848. There were two delegations from New York, and the convention was, therefore, forced to come to a decision on the validity of their respective

claims, before it could proceed to its real duties. The result of the election contest, and even more, might depend on the decision of this preliminary question, partly because of the great number of electoral votes which New York cast, and partly because in the struggle that had led to the double representation of the party, side by side with local and subordinate questions, the territorial question had played a prominent part.

The feud dated back about to 1842, and had been developed mainly from the political problems which had been an indirect consequence of the commercial crisis of 1837 and 1839. The reform wing of the party demanded retrenchment and abolition of the manifold abuses which had found a lodgement in the party regime, in that which is nowadays called in the United States the "machine." A truth was then recognized, which in later times has too often been forgotten, that the internal reform of a party cannot be carried out by the corrupt leaders. One of the main objects of the reformers was to break the influence of the latter, and to this they owed their appellation of Barnburners, their enemies charging them with a readiness to burn the building with the vermin, in default of a less radical means of purification. The Hunkers,[1] on the other hand, represented if not absolutely the corrupt elements of the party, at least those with easier consciences, whose prime object was always the maintenance of the supremacy of the party and their own supremacy within the party. By means of the most arbitrary conduct and the grossest unfairness, they obtained complete control of the state convention, held at Syracuse from the 29th of September to the 2nd of October. A resolution against the admission of slavery into territories, at that time free, moved by a

[1] Apparently from to "hanker" for spoils and offices.

certain Smith, was laid upon the table, and an address was issued in the name of the Democratic party of New York, although the requisite number of delegates (quorum) had not joined in the vote. The Barnburners refused to submit to this imposition. On the 26th of November they held a convention at Herkimer, which declared expressly in favor of the Wilmot proviso, and sent out invitations for a new convention, to be held on the 22nd of February, 1848, to consider especially the choosing of delegates to the national convention. The Hunkers, on the contrary, had arranged that every congressional district should choose its own delegates. The Democratic members of the Legislature, however, sided with the Barnburners, but they changed the place of holding the convention from Herkimer to Utica, and called it for the 16th, instead of the 22nd, of February. The Hunkers, with quick decision, sought to take the wind out of the sails of their opponents. The executive committee of the Syracuse convention called a convention for the 26th of January, at Albany, and, anticipating that many, or rather most of the primary organizations would send no delegates, it allowed the places of such delegates to be filled by volunteers. This convention, then, with no constituents behind it, audaciously ignoring the existing party organization, nominated new local committees to take charge of the district elections for the national convention.[1] From this brief review of the more important facts, it is clear that the Utica delegates had, at any rate, more claim than their Albany rivals to be regarded as the representation of the Democrats of New York. But the interests of the party required that, if possible, the good will of both factions should be preserved, and the

[1] For the details of the great feud between the Barnburners and the Hunkers, see Gardiner, The Great Issue, pp. 46–75, where all the more important documents are printed.

Albany delegates had, moreover, in the eyes of the representatives of the south, the great merit that in opposition to the standpoint originally adopted by the Democratic party of New York, they had indirectly freed themselves from the heresy of the Wilmot proviso. These considerations determined the committee on credentials to come to no decision until both delegations should have promised to submit themselves to the decision of the convention, and to support the candidates that it should nominate. This the Hunkers were ready to do, but the Utica delegation refused to comply with the request, and declared that it must be admitted or rejected unconditionally.[1] The convention then sought to bring about a compromise, according to which the two delegations should be admitted and cast together the 36 votes belonging to New York. The Barnburners would not consent to this and left the convention, and the Hunkers felt so offended at being placed on a level with the Barnburners, that they too refused to take any active part in the nomination,[2] although they pledged themselves to support the candidates of the party.

In view of the strict discipline that has always distinguished the Democratic party, the far-reaching consequences of this outcome of the struggle would be inexplicable if, as we should be led to believe by a superficial examination of the meagre official report of the transactions of the convention, the contest had really turned solely on the question which of the two delegations was the "regular," that is to say, the rightful, representation of the Demo-

[1] Official report of the Proceedings of the Democratic National Convention, held at Baltimore, May 22, 1848, p. 8.

[2] New York Hard and Softs, p. 11. In Rome, N. Y., an attempt was made to reunite the two factions of the Democrats in New York, but it led only to a division of the Hunkers into the Softs and Hards. The former inclined more to the Free Soilers, of whom we shall have to speak hereafter.

crats of New York. According to the unanimous utterances of those concerned, the difference of principle on the territorial question had been the determining consideration, but on other points their representations of the affair differ essentially. According to the Hunkers, the Barnburners had desired to "assert the Wilmot proviso as a political test," while the convention refused to touch the question at all,"[1] leaving it to each one to hold the views which seemed right to him in the matter.[2] According to Van Buren, on the other hand, whose testimony in this matter cannot be objected to, the Barnburners were ready to accept any candidate who was not distinctly pledged against the Wilmot proviso.[3] The platform gives us no clew as to the attitude of the convention with regard to this question. It only declared that Congress had no authority to occupy itself with slavery in the states, which nobody disputed, and then expressed strong disapproval of all attempts to move Congress to any action whatever with reference to slavery.[4] The second point was so vaguely expressed as to admit of any interpretation that might be desired. It spoke of slavery absolutely, and no longer, as

[1] "To let it alone * * * being mischievous in its design and tendency, and calculated to divide and weaken the Democratic party."

[2] "They simply declared, that while every man was entitled to enjoy and avow his opinion on this subject, it should not be allowed an entrance into a Democratic convention as a rule of political faith."

[3] "If I understood your course, your delegates went to the convention prepared to accept the nomination of any sound Democrat, who had not actually submitted to a test which implicated the well known and repeatedly expressed opinion of your state, without interrogating him in regard to his opinion on this particular question." Gardiner. The Great Issue, p. 115.

[4] "That all efforts of the Abolitionists or others made to induce Congress to interfere with questions of slavery, or to take incipient steps thereto, are calculated to lead to the most alarming and dangerous consequences."

in the preceding paragraph, of slavery in the states, and on the legal question it expressed no views whatever.[1] On this point indeed, the convention, as the Hunkers maintained, had not wished to say anything, however much the emphatic generalities might seem to say to those who form their judgment rather by the tone than by the logical meaning of words. Yancey, of Alabama, moved a resolution which would have pledged the convention directly to the doctrine of non-interference.[2] There could be no doubt, since Yancey was the mover, that non-interference was to be understood in Calhoun's sense,[3] nevertheless, this was not formally expressed and the convention might, therefore, have accepted the resolution without revealing its internal dissensions. Notwithstanding this, it rejected the motion by a vote of 216 to 36.[4] Its foresight extended

[1] The paragraph had been taken *verbatim* from the platforms of 1840 and 1844. Silas Wright was the author of the platform of 1840, but according to Wm. T. Young, who rests his statement on a letter of Governor J. Hill, of New Hampshire, he admitted this paragraph at the instigation of Van Buren. Life and Public Services of Gen. L. Cass, p. 366.

[2] "*Resolved*, That the doctrine of non-interference with the rights of property of any portion of the people of this confederacy, be it in the states or territories thereof, by any other than the parties interested therein, is the true Republican doctrine recognized by this body."

[3] In the Democratic State Convention of Alabama (1848) he had moved to declare the doctrine of squatter sovereignty as equally false and dangerous with the assertion that Congress could rightfully prohibit slavery in a territory. Cfr. Hodgson, The Cradle of the Confederacy, pp. 270, 271. Foote, therefore, was right as to the facts when he said: "They [Yancey and those who shared his views] * * * resolved to get, if they could, a new plank in the accustomed political platform of that (Democratic) party, committing its members to the adoption of a distinct intervention policy, and allowing slavery to be introduced into all the vacant territory of the Union." The Bench and Bar of the South and Southwest, p. 234.

[4] Harris, Review of the Political Conflict in America, p. 117 writes: "Its rejection was the work of the northern leaders of the party, although not so indicated by the vote in the convention. This was the

even further. Foreman of Georgia purposed to introduce a resolution against the Wilmot proviso, but allowed himself to be dissuaded from doing so. Cobb afterwards maintained that this was because that old resolution from their platform of 1840 had indicated with sufficient clearness the attitude of the party, yet he also admitted that other considerations might have exerted some influence.[1] This was undoubtedly the case. The convention did not think it prudent to express a formal condemnation of the Wilmot proviso, but it was quite decided against the proviso, and for this reason had been unable to come to any understanding with the Barnburners.[2] Bailey, of Virginia, gave it as his opinion: "No man who acknowledges this principle is a Democrat" and Strange, of North Carolina, declared: The Barnburners virtually excluded themselves by accepting the Wilmot proviso; the south would not vote for their admission.[3] The convention had not, as the Hunkers would fain have had it believed, excluded the territorial question from the party programme, but had only preserved a well-calculated silence on the point. That was, at any rate, sufficient to secure liberty of individual conviction during the presidential contest—the votes of the worst heretics would count as much as those of the true believers—but none the less there could be no doubt

first manifest wavering that the Democratic party had shown before the abolition sentiment of the north; and much as the leaders of both sections believed in the justice of non-intervention, those in the northern states feared to meet their constituents, should this be endorsed as a cardinal principle."

[1] Congr. Globe, 30th Congr., 1st Sess., p. 889.

[2] Holmes, of New York, said, Aug. 7, 1848, in the House, that an agreement had been possible, until Cass, "a Free Soil traitor was set up as candidate for the presidency." "This was too much. From this the Barnburners rebel." Congr. Globe, 30th Congr., 1st Sess., Append., p. 1112.

[3] Gardiner, The Great Issue, pp. 100, 101.

as to what would be the policy of the party after the election. No resolution could have proclaimed this more clearly than did the name of their presidential candidate. Cass, by his Nicholson letter, had sworn unconditional allegiance to the south, and on this question Cass was a renegade; thus the slavocracy could not have found a more reliable man.

Ample proof has now been adduced of the error of the prevailing opinion in the United States, that the Democrats at this time had the courage of a firm conviction, and avowed their principles openly and without reserve. It is, however, easy to explain how this error came to establish itself so firmly and become so widespread. The conduct of the Whigs served the Democrats as a foil, and in truth it would be difficult to push further, or to carry out more systematically, the abandonment of all principles on principle than did the Whigs in this campaign.

Scarcely had the first Congress of Polk's administration met, when the Whig politicians at Washington turned eagerly to the business of president making. Some of the most prominent leaders from the southern states first renounced their allegiance to Clay, and sought to raise General Scott on the shield.[1] Seward, however, soon

[1] Seward writes, January 6, 1846, to Th. Weed: "I have informed you that General Scott's 'Life' is in the press. His nomination for the presidency is quite as near as the publication of his memoirs. I was solemnly invited into a council last night to mature that event. The mover was Mr. John M. Clayton, who, though the wisest man here, could not see that in just that way had been brought about the ruin of his friend Mr. Clay, who, he now insisted, must be thrown overboard. * * * Under the lead of Clayton, Crittenden, and Mangum, of the Senate, Mr. Clay is pronounced *hors de combat*. General Scott is the Whig congressional candidate for president, and Mr. Corwin, of Ohio, for vice-president." F. W. Seward, Autobiography of W. H. Seward, p. 772.

cooled the overzealous by pointing to the old lesson of experience that no worse service could be rendered a candidate than to bring him on the stage too soon;[1] and in the course of a very few months the gentlemen were reminded with emphasis that the times were long gone by in which the nomination of presidential candidates was left to the members of Congress. A meeting in Trenton, New Jersey,[2] nominated General Taylor, and the example thus set was soon followed by a meeting in New York. What was especially noteworthy in it all was the prominence given at Trenton to the fact that the nomination was made "without regard to party limits or party questions." Since it was impossible to foresee the candidates, or the character of the programme which would be set up by the two great parties, and some two years were yet to elapse before the holding of their national conventions, this action was evidently the expression of a deep-seated dissatisfaction with the course of the two parties, or at least of a high degree of indifference towards the old party questions, for Taylor's military reputation had not yet reached the point where it could have been expected to call forth in the people an enthusiasm that would sweep away all sober considerations, and outside of the camp the General had never played any part whatever. When, however, he became more and more the hero of the Mexican war, the movement, to which the impulse had been given at Trenton and New York, spread like wildfire. In the most diverse parts of the Union, gatherings, held independently

[1] "I trust I have done something to arrest the folly of premature nominations for the presidency. I have shown the old body-guard of Clay that their leader was at Elba, not at St. Helena." Jan. 25, 1846. Ibid., p. 782.

[2] According to Niles' Reg., LXX., p. 256, on May 11, 1846; according to the Stateman's Man., III., p. 1822, June 11.

of regular party influences, nominated him. These were mainly composed of Whigs, but Native Americans and Democrats also often chose him for their "standard bearer," and the declaration made at Trenton was often repeated, that this was done with total disregard of old party relations. When Scott began to pluck the victorious laurels, by the aid of which his friends in Congress might perhaps have opened the doors of the White House for him, Taylor had already become so prominent a candidate by the spontaneous action of the people that it was no longer possible for the leaders of the two great national parties to ignore the movement that had arisen without their participation, and for the most part very much against their wishes.

Taylor, a plain soldier, of straight-forward, sturdy intelligence, and sound, homely judgment, who had never troubled himself with politics, was at first, in his unaffected modesty, too clearly conscious that his previous culture and course of life did not constitute the best training for the presidency, to stretch out his hands with eager desire for the honor thus offered to him unsought. On the 26th of January, 1847, he wrote to Crittenden, that as far as the presidency was concerned, he had no desire whatever for the office, and was not so vain as to think himself qualified for it; and that, while if the people should be so indiscreet as to offer it to him he perhaps would not refuse to accept it, and to fill it to the best of his ability; yet he could say that if his getting it depended upon a wish of his, that wish would never be formed.[1] And as late as the 4th of November, 1847, he assured Clay that it was only with extreme unwillingness that he had allowed his name to be mentioned in connection with

[1] Coleman, Life of J. J. Crittenden, I., p. 277.

the presidency, since both his personal preferences and his limited acquaintance with the affairs of civil and political life had led him to wish to be allowed to close his life in quiet and retirement. He expressed the hope that the party might decide upon Crittenden, himself, or Clay, or some other tried Whig, in which event he would himself gladly withdraw, and he also expressly promised to lend his aid to keep the party together to accomplish the downfall of the "present dynasty."[1]

As time went on, however, his way of viewing the question appreciably changed. Even that very month, he accepted with lively expressions of thanks the nomination of a Pennsylvania Democratic convention.[2] Whoever passed over into his camp was now received with a hearty welcome, under whatever standard and with whatever words he might come, provided only his solution was "Taylor." The heart and brain of the gallant man could not with impunity be exposed so suddenly to the influences of the heat and the dust of the political arena. The eager acclamations that now greeted him from all sides forced the blood in quicker pulsation through his veins, and increased his confidence in himself. Vanity and political ambition, however, were so foreign to his nature that they were only secondary causes of this change in his way of feeling. It was not so much his estimate of his own personal worth, as his opinion of the character of the office in question, that underwent a gradual change, and in this he was only swimming with the stream. It was brought forward as a special advantage of his candidacy that he had no old political connections, and would be bound by no pledges to any political clique, as if this in itself was ample proof of the advantages of his having hitherto stood entirely

[1] Clay's Private Corresp., pp. 548, 549.

[2] Congr. Globe, 31st Congr., 1st Sess., Append., p. 48.

aloof from political life.[1] The old dream of a president with no party position seemed now about to be realized. Sufficient guaranty of this was found in the fact that electors of all classes were declaring for him, and he himself had never made any political confession of faith.[2] He was the candidate of the "people," because the constitution was the only platform on which he had ever stood, or would stand in the future.[3] In all this it was forgotten how many different interpretations the constitution had been subjected to during the two generations in which it had existed. The purity of his character afforded sufficient security that he would understand it aright, and to the satisfaction of all true patriots who pursued no selfish aims.[4]

[1] In the resolutions of a nominating convention held at Harrodsburg, Kentucky, we read: "And whereas, he is particularly agreeable to us as the people's candidate for the presidency, from the fortunate circumstance that he has been entirely aloof from the party conflicts of the country, has formed no 'entangling alliances' with intruding politicians or wire-workers; and if elected would have no debts to pay with the offices and money of the people for partizan electioneering services; and whereas, as president he would be unfettered and could give full play to the honesty of his nature as the president of the whole country and not of a party;" etc. Niles' Reg., LXXIII., p. 79.

[2] Taylor was said never to have voted.

[3] A nominating convention at Baltimore resolved: "That the platform of the constitution, upon which General Taylor stands before the people, guaranteeing equal rights to all, furnishes a sure and ample basis upon which all our fellow-citizens, whether known as Democratic or Whig, native or naturalized, may unite in his support and participate in the benefit of good government under his administration." Congr. Globe, 31st Congr., 1st Sess., Append., p. 48.

[4] The *Boston Courier* wrote in the autumn of 1847: "His [Taylor's] popularity is great, not only in the whole west, but in New England—even in Massachusetts, after you travel fifty miles from Boston. It is useless to attempt to reason as to why and wherefore with anybody, or to ask what particular principles are expected to be promoted by his election. The answer would generally be, from one of his partisans, that he cares little for any pledge, as he believes the General to be an honest man, and he is willing to trust to him to do right." Niles' Reg., LXXIII., p. 78.

The masses of the American people take pleasure in calling the Presidency of the United States the first office in the world, while at the same time they have allowed themselves to be convinced by demagogues, stump speakers, and shallow journalists, that suitable men to fill it can be found in every county of the Union. The two assertions are not very consistent and the latter is a very dubious compliment to the United States; in the mouth of a foreigner it would be properly stigmatized as a silly insult. The Union is a great civilized nation, and the men really competent to stand at the head of such a nation are never to be counted by hundreds, still less by thousands. One of the chief tasks of the American people is to become perfectly clear on this point, and then to compel the politicians to pay regard to this truth in the nominating conventions to the fullest extent and with scrupulous conscientiousness. The surest way to cause even personal integrity of character to cease to be regarded as an essential requisite for the presidential office, is to declare it in itself a sufficient qualification, and to regard tried capacity for statesmanship as superfluous or even harmful. The general average of common intelligence and well-meaning views do not suffice to make the endowment of a statesman.

The agitation, so far as it was a spontaneous movement of the people, sincere and free from all ulterior motives, was based on this fatal under-valuation of the claims of the national interest on the President, and Taylor allowed himself to be drawn into the same error by the enthusiasm of his partisans. Of the purity of his own motives he was sure; the firmness of his resolution he had proved in the face of the enemy on many a bloody day; and his hand had wielded the general's staff so long that he thought himself inferior to none of his rivals in the arts

of command. It seemed to him, accordingly, that a justifiable confidence in himself, and patriotic duty equally required him to maintain the position in which he had been placed by the confidence of his fellow citizens, with the same resolution and obstinacy he had shown on the battle field of Buena Vista. On the 20th of April, he announced to the editor of the *Richmond Republican* that he should under no circumstances, withdraw his name from the list of candidates, and on the 30th of April, he informed Clay of this resolution,[1] at the same time repeating the assurance that he regarded the nomination of some other man as more fitting, and that he would welcome the nomination of Clay in particular with the liveliest satisfaction.

Colton maintains, that, if Clay could have overcome his own magnanimity, sufficiently to publish this letter, Taylor's name could not have been brought forward in the Whig convention, and that his election would have been an impossibility if the contents of the letter had been made known during the electoral contest.[2] This is an utter mistake. The still more explicit letter to the editor of the *Richmond Republican* was known at the time. It put the knife to the breast of the Whigs and turned the scale against Clay, if we are to assume that his nomination had at any time been a possibility.[3]

[1] * * * "On reaching New Orleans many friends called on me to let it be publicly announced that my name as a candidate for the office in question would not be withdrawn, let who would be in the field, which I consented to, and advised my friends in Washington of my change in that respect, without delay. I therefore now consider myself in the hands of the people." Clay's Priv. Corr., p. 559.

[2] The last Seven Years of the Life of H. Clay, p. 92.

[3] In this letter we read: "I do not design to withdraw my name if Mr. Clay be the nominee of the Whig national convention. * * * It has not been my intention at any moment, to change my position or to withdraw my name from the canvass, whoever may be the nominee of the national convention, either of the Whig or Democratic party."

The bitter experiences of the past had not been wholly lost on Clay. His sanguine temperment, which had rendered him such ill service in his former candidacies, was now under better restraint. As late as the 18th of February, 1848, he wrote to General Combs, that, in conformity with the advice of his friends, he was still preserving his attitude of passivity and did not know himself when he should abandon it, if he did so at all.[1] He had become prudent and his head told him he must be prepared for a new disappointment, but his heart was still filled with the hope that he was now at last about to attain the highest goal of his ambition. His head was a better counsellor than his heart. The influential friends who would have gladly seen his name left out of the list of candidates from the beginning, had weighty reasons to assign for their views. It is doubly hard to win a victory when the contest is to be begun without any joyous confidence, and how could a leader, who had been defeated not only by the other side but also in his own party, inspire the party with such confidence. Then, too, the petty jealousies, between the prominent leaders and their respective partisans had rather increased than diminished, and the material interests which had hitherto held them together had lost much of their uniting power. This was one of the chief reasons why the thought of setting up a "people's candidate" met with so general a response. The breaking through of the old party limits was not only a fact and a means to an end, but it was itself an end, and the

General Taylor and the Wilmot Proviso, p. 11. H. E. Johnson, Taylor's neighbor and zealous partisan, declared in a speech at Watertown, N. Y.: "The Philadelphia convention was compelled to nominate him—if they had not, he would run an independent candidate." Ibid., p. 19. So, also, Young, Life of Cass, p. 367.

[1] Priv. Corresp., p. 555.

more ardent spirits wished and expected that Taylor would complete the destruction of the existing party organizations.[1] A large number of the old party questions had received a final decision, and the remainder had for the present been thrust into the background, or, in consequence of accidental circumstances, assumed for the time being such an aspect that the Whigs had nothing to hope from pressing them more strongly. The statement of the *Courier and Enquirer* was, therefore, unquestionably well founded, that a man whose candidacy would have placed the election contest on the ground of those old party questions could have no prospect of success, since he had been defeated on the same ground in 1844 when the questions had still been living, or had worn a more favorable aspect for the Whigs.[2]

[1] The *Courier and Enquirer* writes Sept. 6, 1847: "If party organizations are to be broken up—if the great mass of the people are to be rallied to the support of one man—it must be some man whose name has not been for years the watchword of party divisions—who commands by his character and his acts, the respect and admiration of the whole country; and whom all men and all parties can support, without giving the lie to their past conduct and their past lives." Niles' Reg., LXXIII., p. 20. The above mentioned H. E. Johnson said in his speech at Watertown: "He was nominated for the express purpose of breaking up the old organizations * * * and, if elected, would do all in his power to break down the old parties. He was nominated to bring about a new state of things." General Taylor and the Wilmot Proviso, p. 19.

[2] "The tariff, which was then (1844) by far the strongest hold of the Whigs, has for a time at least withdrawn from controversy. Under the present tariff the revenue has been large, manufactures have prospered, and every branch of industry has met its fair reward. This has been owing, doubtless, to accidental causes—to the famine in Europe, mainly*—but as a fact, it would have great weight in defense of the existing tariff. The debt created by the war has postponed the

* That this view was not altogether baseless is apparent from the fact that in 1845 corn and other necessaries of life were exported to the value of $16,743,421; in 1846 to $27,701,121; in 1847 to $68,701,921, and in 1848 to $37,472,754. Niles' Reg., LXXV., p. 21.

Not all of the Whigs who were opposed to Clay's nomination were also in favor of setting up a colorless candidate. As soon as the movement in Taylor's favor had become strong enough to require attention, he was called upon from various sides to express his views on the important questions of the day. His replies[1] gave the campaign a unique character. True to his rôle of "people's candidate," he declared that he could not pledge himself to any definite party programme, and he, accordingly, refused to enter into details.[2] At the same time, he avowed with *naïve* ingenuousness that these matters had lain too far from him in the past for him to have clear, well thought-out views, ripened into firm convictions.[3] When, however, it became clear beyond a doubt, that the Whigs

issue concerning the distribution of the proceeds of the public lands. A national bank has become an 'obsolete idea.' Texas has been annexed, and the Oregon dispute has been finally settled. Upon all these questions, the ground held by the Whigs in 1844 has been taken from under them. They could not stand upon them half as well as they did in the last campaign; and yet then they were beaten. How, then, with a candidate whose name would rally parties precisely upon their old dividing line, could we hope for success in 1848?" Niles' Reg., LXXIII., p. 20.

[1] All the more important letters of his campaign correspondence are given in full in the pamphlet, General Taylor and the Wilmot Proviso.

[2] "I have laid it down as a principle, not to give my opinions upon, or prejudge in any way, the various questions now at issue between the political parties of the country, nor to promise what I would or would not do." Feb. 15, 1848, to B. M. McConkey.

[3] "I confess, whilst I have great cardinal principles which will regulate my political life, I am not sufficiently familiar with all the minute details of political legislation to give solemn pledges to exert my influence, if I were President, to carry out this or defeat that measure. I have no concealment. I hold no opinion which I would not readily proclaim to my assembled countrymen; but crude impressions upon matters of policy, which may be right to-day and wrong to-morrow, are, perhaps, not the best test of fitness for office." April 22, 1848, to Allison.

formed by far the preponderating element in his support, although Democrats and native Americans had been the first to nominate him,[1] he acknowledged himself a Whig, "though not an ultra one." Nevertheless, he did not on this account decline further Democratic nominations, and he repeated expressly that he was not to be regarded as a party candidate.[2]

Whoever, therefore, wished to make the General President had to take him without any programme, and solely in reliance on his honest face. We can readily understand that those who were disgusted with the old party organizations were contented to do this. But a party that wished to remain a party, and, that acting as a party made him its candidate, under these circumstances simply gave itself up. Assuredly the President ought not to be a blind party tool; but the highest voice in the legislation of the land ought not to be intrusted to a man who has only "crude impressions" with regard to the questions on which the political life of the people has turned for years, or even for decades, and who expects to form definite convictions about them only after he has become President.[3] A party

[1] Congr. Globe, 30th Congr., 1st Sess., pp. 891–898.

[2] "I am a Whig, though not an ultra one, and I have no desire to conceal that fact from any portion of the people of the United States. I deem it but candid, however, to add, that if the Whig party desire at the next presidential election to cast their votes for me, they must do it on their own responsibility, and without any pledges from me.

"Should I be elected to that office, I should deem it to be my duty, and should most certainly claim the right, to look to the constitution and the high interests of our common country, and not to the principles of a party, for my rules of action." Feb. 12, 1848, to A. M. Mitchell.

[3] June 9, 1848, he writes: "As regards the second and third inquiries [regarding the bank question and the protective tariff,] I am not prepared to answer them. I could only do so after duly investigating those subjects, which I cannot now do; * * * and I must say to

that selects such a man for its presidential candidate admits, by so doing, that it has either become indifferent to its party programme, or has lost all hope of winning the people to its views. Instead of representing a definite policy, it thrusts its hand into a grab-bag, and contends no longer for its convictions but only for its man. By so doing, it admits that it no longer has any *raison d' être*, for a party without a programme ceases to be a party; a man without a political past and without political convictions, however, is no programme, and the subordination of a party programme to a presidential candidate without a programme is, however emphatically it may be denied, a formal renunciation of the party programme.

If the Whigs had contented themselves with nominating Taylor simply on the strength of his utterances given above, they would have, therefore, killed the party, which even then would have ended less worthily than any of the parties of the past which had lost its vitality by the development of events, and disappeared from sight. But the leading Whigs who wished to see him chosen as the official candidate of the party—especially the men who had originally been in favor of Scott—thought he had not yet made himself colorless enough. There were still many Whigs who would have been unwilling to vote for the General, if they had known that on any essential point he differed from themselves. In order to win these over, it was necessary that Taylor in all matters to which it could be foreseen that such importance would be attached by one section or the other should be represented as an unwritten sheet of paper, or that his views should be wrapped in impenetrable darkness. Crittenden had heard that he in-

you in substance, what I have said to others in regard to similar matters, that I am no politician." The Democratic Review, Oct. 1848, p. 286.

tended to address a letter to Orlando Brown, in which he would declare himself in favor of the acquisition of territory from Mexico, although the treaty of Guadeloupe Hidalgo had already received the sanction of the Senate. Crittenden hereupon wrote off a long letter to Brown in which he urgently requested him to prevent the General from expressing himself on this delicate question, inasmuch as the New England states, and especially Webster, were very sensitive on the point; if he had already received the letter he had best send it back for revision. In general, Taylor was to express himself only in vague terms and about principles; he was to preserve a strict silence about measures and details. With regard to the point in question Brown himself would do well with his practiced pen to turn off a few serviceable and not compromising generalities for the General.[1]

If, on this point, which might be regarded as virtually settled, it was "important that all should run smoothly," because "with all our prudence" it might be a difficult matter to elect Taylor, it was, of course, still more important that he should not compromise himself on the now burning question of the treatment of slavery in the new territories. Taylor himself had perceived this. J. W. Taylor, the editor of the *Cincinnati Signal*, had interrogated him on this point, as early as the beginning of 1847. The vague phrases in which Taylor's reply was couched were interpreted by the questioner to mean that the General was in favor of the Wilmot proviso, but he afterwards declared himself convinced that this was a mistaken interpretation, and accordingly joined the Free Soil party. Taylor, however, after this did not trust himself

[1] See a letter which throws a great deal of light on the situation in Coleman, Life of J. J. Crittenden, I., pp. 294–296

to utter even vague oracular utterances on this point. McConkey had likewise put the question to him directly, and had been curtly dismissed with the reply that the General refused on principle to express himself on the questions of the day, and in all other letters this stone of offense was anxiously avoided. The "people's candidate" had nothing to say on the question that was moving the nation to its profoundest depths, and his marshals in the election contest presented him to both north and south with the same cheerful, smiling confidence. Each section thought itself secure, or at least pretended to think so, for Taylor stood on the base of rock of the constitution, and in his heart was no guile. In the north, they appealed to his letter to the editor of the *Signal* and to his assurance that he was a Whig, in order to represent it as beyond a doubt that he was opposed to the extension of the slave territory, as if that was an article of faith of all Whigs and not merely of the northern wing of the party. In the south, on the other hand, it was said: We desire no pledges; the fact that he is a southerner and himself the owner of many slaves is of itself an absolute guaranty.[1]

If the "people's candidate" had to be painted with this double face, it was indeed requisite to exercise "all prudence" to prevent the destruction of the pious trust, that his promise to steer the ship of state solely by the compass of the constitution sufficiently qualified him for pilot. And it was, therefore, perhaps only a justifiable, wise foresight that made his faithful followers unwilling

[1] Macbeth of South Carolina said: "To expect that at home we were so distrustful of each other, as to ask pledges on the subject, would be to admit that the institution of slavery does not, of itself, create the bond that unites all who live under its influence." General Taylor and the Wilmot Proviso, p. 21. In this pamphlet fourteen southern journals are enumerated which declared it simply absurd to doubt that Taylor was unconditionally opposed to the Wilmot proviso.

to trust the guidance of his own little boat to his unpracticed hands. His political correspondence during the campaign is marked by a singular unevenness. The early letters—with partial exception of that to the *Signal*—are delightfully embarrassed and involved compositions, reflecting with the most perfect fidelity the character of the man to whom his soldiers had given the surname of "Old Rough and Ready." His later letters, on the other hand, are not only quite correct in point of style but in their intentional vagueness and elusiveness they are formed on the true diplomatic pattern. The explanation of the very marked difference is to be found solely in those adroit pens of which we have heard Crittenden speak. The biographer of the senator is right in saying that the second letter to Allison, of the 4th of September, 1848, was the platform on which Taylor's campaign was finally fought, and we know from a letter of Al. H. Stephens to Mrs. Coleman, Oct. 18, 1870, that this letter was written in Stephens' room at Washington, after a consultation between him, Toombs, and Crittenden, and was forwarded by Major Bliss to the General, who then gave it to the world as his letter to Allison.[1]

This particular fact was not known at the time, but it was well known and much talked of, that Taylor had by his side a sort of board of curators to guide him carefully lest he should stumble or go astray on the slippery field of political combinations. Not only did the orthodox Democrats seek to turn this to their advantage, but also those of the Whigs who were too proud—who had too

[1] Seward, who exerted himself greatly for Taylor's election, and who afterwards was one of the strongest supporters of his administration speaks of the "inappropriate and unreasonable letters of our candidate for president." Aug. 26, 1848 to E. J. Fowle. Seward's Work's, III., p. 412.

much confidence in themselves, and too much faith in the mission of their party—to look for safety only in the epaulets of a victorious general, declared this a sufficient proof that Taylor was not the man to be placed at the head of the state in such difficult and threatening times. When the Whig national convention assembled at Philadelphia, on the 7th of June, 1848, his nomination was by no means a matter already decided, although he was from the first the strongest candidate. To make their victory certain, his partisans thought it necessary, not only to exercise the severest pressure upon recalcitrants, but also to have recourse to the most unworthy intrigues. Judge Saunders, of Louisiana, formally notified the convention that Taylor would under no circumstances abandon his candidacy, inasmuch as he had been put forward by the people without his contrivance. It is true, he explained this to mean that Taylor would not withdraw of his own motion, but would willingly submit himself to the judgment of his friends if they should think it best to let him drop.[1] But the object was accomplished. This was not regarded as a recall of the letter to the *Richmond Republican*. The convention received the impression that Taylor was determined to remain the "people's candidate," and that it, therefore, had the alternative of nominating him or of allowing the party to split, and of thus renouncing in advance all hopes of success. Intrigues that had in part been carried on even before the convention met accomplished the rest. The Virginia convention had nominated Taylor on the credit of a forged dispatch, to the effect that Kentucky had decided in his favor, and that Clay had thus been abandoned by his own state.[2] Scott, who could still boast a strong following, had directly expressed his readiness to

[1] Niles' Reg., LXXIV., pp. 356, 357.

[2] See Bott's Protest.

accept the nomination of vice-president, provided Clay were nominated for the presidency.[1] Clay's prospects, both in the convention and in the election, would have been appreciably increased by such a combination, but the member of Congress who had been authorized to make known this declaration of Scott's, kept it carefully secret. Clay, in his letter of the 10th of April, 1848, in which he gave his consent that his name should be brought before the national convention, had laid special stress on the fact that, according to the representations of his friends, he could count with certainty upon New York and Ohio.[2] We cannot, therefore, doubt his after assurance, that he would not have allowed his name to be placed upon the list of candidates at all if he had not confided in these assurances;[3] and as far as Ohio was concerned, he had a right to trust them, coming, as they did, from as high a quarter as Governor Bebb.[4] The Ohio delegation, however, voted for Scott. As his nomination was out of the question, this was rightly looked upon as an announcement that it would accept Taylor's nomination as soon as it could do so with propriety. Had they acted with sincerity, they might have spared the aged leader of the party, who had been deeply bowed down by the loss of a son in the Mexican war, the pain of a fresh formal defeat; but for this, their sensibilities were too—delicate. He felt still more bitterly than this masked desertion of the Ohio delegation to his younger rival, the vote, on the first ballot, of seven delegates of his own state for Taylor, and it had, indeed, at least as much influence on the de-

[1] General Scott to Mr. Clay, July 19, 1848. Clay's Private Corresp., p. 571.

[2] Colton, The Last Seven Years of H. Clay, p. 474.

[3] Colton, The Last Seven Years of H. Clay, p. 464.

[4] See his letter of the 4th of April, 1848, to Clay. l. c., pp. 476–478.

cision as Ohio's desertion. On the fourth and decisive ballot Clay received 32 votes against Taylor's 171, while Scott's vote had risen to 63.

Thus the attempt had succeeded to give the Whigs a leader without a programme, a man of whom Crittenden himself knew nothing more to say than that he had beaten the Mexicans, and was an honest man, which two qualifications he was then obliged to pronounce sufficient.[1] It was, therefore, only consistent in the convention that it declared its task accomplished by the nomination of Taylor, and by that of Fillmore, of New York, as candidate for vice-president, and then adjourned without having drawn up any platform. The programme of the Whigs was not to have any programme. Tilden, of Ohio, introduced a resolution in favor of the principle of the Wilmot proviso. This was, of course, the last point on which it would have been possible for the convention to make a confession of faith in the name of the party. The motion was almost unanimously laid on the table,[2] and it was

[1] In a campaign speech delivered at Pittsburgh, June 24, he says: "What is the foundation for the belief that the possession of high intellectual powers is the great qualification necessary for an aspirant to the presidential office? After all, the heart of a man is the best qualification—a heart that is honest and faithful. Gratitude will keep such a heart in the right path, and under the rule of such a man we could not be in danger. None of our presidents have ever failed through want of intellect. The failures of our administrations (where they have failed) have been through want of heart, and not of head. A man with a sound American heart, and a good common understanding, is what is wanted, and with such we are secure against treachery and danger. An honest man is needed, and honest men are not so scarce as is sometimes supposed." Coleman, Life of J. J. Crittenden, I., p. 307.

[2] The *Richmond Times*, of June 13, says: "Not more than a dozen votes" were opposed to it. Brown, of Pennsylvania, who had moved to rid themselves of the resolution in this way, thought: "They were assembled there to carry out the glorious Whig principles, and were they to be diverted from their purpose by a set of factionists?"

afterwards even boasted that no attempt had been made to disguise the impossibility of taking a definite position as a party on this question.[1]

Thus the national conventions of both parties had officially, and one of them by direct action, ignored the question which Congress and the entire people had recognized for more than a year as the weightiest and most pressing question of internal policy — a question whose fearful weight threatened to prove too much for the foundations of the Union. The Whigs, moreover, acted as if there were no political questions, and they proposed to the people to place Taylor at the head of the state, because, as Giddings expressed himself, they did not know his views.[2] Clay was not, therefore, merely giving vent to personal vexation, but was fully borne out by the facts when he declared that the Philadelphia convention had "degraded" itself and "dishonored" the party, and he rightly repelled the presumptuous proposal that he himself should now blow the trumpet for Taylor.[3] He was not alone in this opinion. Many, it is true, for example Webster,[4] who had at first expressed themselves in the severest language touching Taylor's nomination, finally supported him. But there nevertheless was a minority of whose forbearance too much had been demanded. Even in the convention

[1] "Differences frankly declared, never attempted to be disguised," said Duer, of New York, in the House. Congr. Globe, 30th Congr., 1st Sess., App. p. 1049.

[2] Cong. Globe, 30th Congr., 1st Sess., App. p. 382.

[3] September 20, 1848, to James Lynch and others. Private Corresp., p. 576.

[4] In a speech at Marshfield, September 1, 1848, he declared: "General Taylor has been nominated fairly, as far as I know, and I cannot, therefore, and shall not oppose his election. At the same time there is no man who is more firmly of opinion that such a nomination was not fit to be made." Works, II., p. 441.

there had been some violent scenes. Allen, of Massachusetts, declared, that in his opinion the convention had proclaimed the dissolution of the Whig party.[1] Henry Wilson, of the same state, formally renounced his allegiance to the party, and announced that he should exert all his strength against the election of Taylor. Several Ohio representatives also assured the convention that no one could safely count upon their state who would not pledge himself against all further extension of slave territory.

Such manifestations as these could not be lightly overlooked. Of the votes given to Taylor on the first ballot, 97 were cast by states that had voted for Polk in 1844, and of the 94 votes of the Whig states of the north he obtained but four. Thus the north did not choose Taylor of her own free will, but allowed the south to force him upon her. The members of the convention who rebelled against this party command could, therefore, expect to find a following among the people also, and, in accordance with this expectation, they acted. Wilson immediately invited them to a conference to consider their future course of action. It was but a small body of some fifteen men, and even among these there were several who wished to consult their constituents before pledging themselves to anything. It was, nevertheless, determined to call a convention of the opponents of both parties at Buffalo early in August, and to make an attempt to induce the mass meeting of the supporters of the Wilmot proviso in Ohio called at Columbus on the 22nd of June, to take part in this movement. The attempt was completely successful. A reso-

[1] "I declare to this convention my belief that the Whig party is here and this day dissolved. You have put one ounce too much on the strong back of northern endurance." Wilson, Rise and Fall of the Slave Power, II., p. 136.

lution of the mass meeting invited all friends of freedom to a convention at Buffalo, on the 9th of August, to nominate candidates for the presidency and vice-presidency. At the same time a convention of the Liberty party met at Columbus which set up John P. Hale and Leicester King as candidates for these offices,[1] but at the same time expressed its approval of the Buffalo call. And finally the Barnburners, about the same time, held a convention at Utica, which, on the 23d of June, nominated Van Buren for the presidency, although he had declared that he should remain firm in his resolution never to fill a public office again.[2]

Such was the position of affairs when the Senate gave a new turn to the treatment of the territorial question. So clear had it become in the course of the debates that no progress could be made by the methods hitherto employed, that a motion made by Clayton, on the 13th of July, to refer the part of the message relating to California, Oregon, and New Mexico to a special committee of eight members was passed by a large majority. North and south were equally represented in the committee, but Phelps, of Vermont, was the only decided representative of the views of the Liberty party that it contained. Accordingly, while Dickinson saw in this resolution of the Senate the first ray of light, Hale thought that the committee would envelop everything in fog—a foreboding that was fulfilled more literally than even Hale himself could have expected.

[1] These nominations had already been made by the national convention of the Liberty party at Buffalo, Oct. 20, 1847. See Goodell, Slavery and Anti-slavery, pp. 477, 478.

[2] "I trust to your friendship and past indulgence to be excused for repeating my unchangeable determination never again to be a candidate for public office." June 20, 1848. Gardiner, The Great Issue, p. 110.

On the 19th of July, Clayton introduced a bill in the name of the committee. In his introductory report, he informed the Senate, that the principle of the extension of the idea of the Missouri compromise to the whole territorial domain had been approved by a vote of five to three, but that a motion to treat the part of the newly acquired territories lying south of 36°, 30′, as far as related to slavery, in the same way as the Louisiana territory had formerly been treated, had been lost by four to four. All hope of uniting on a compromise had disappeared, and the committee had, therefore, hit upon the idea of making only general provisions for the territories, and of leaving the slavery question to itself. Its recommendations were: 1st—To recognize the provisional laws of Oregon until a law of the territorial legislature should either allow or prohibit slavery; 2nd—To organize California and New Mexico as territories, but to withhold from the territorial legislatures the right to make any decision with regard to slavery; the question of law would then be determined by the constitution itself by the way of a judicial decision, and for this purpose appeals to the Supreme Court should be allowed when cases arose. Clayton did not claim that the constitution prescribed this course, for he added that Congress would still retain the right to bring the contest to a conclusion afterwards, either by an extension of the Missouri line or in any other way.[1] On the 22nd of July, he made the further explanation that the jurisdiction of Congress with regard to the slavery question was neither asserted nor in any way called in question in the bill, and that just in this lay the essence of the compromise.[2]

The committee, in whose recommendations Calhoun also had concurred, thus called upon Congress to follow the

[1] Congr. Globe, 30th Congr., 1st Sess., p. 950.
[2] Ibid., p. 988.

example of the two National conventions and ignore the chief question of the day. Nor was it contented with this. The Democratic convention had only formally and apparently, but by no means in fact, ignored this question, while the Whig convention had only ignored it as a party in order to preserve its outward existence as a party, and in particular to present a firm undivided front in the presidential campaign. Congress, on the contrary, was now asked to vote the question out of existence by a law, as a political question, reserving only the right sometime in the indefinite future to recognize its existence again. In the interim it was to be merely a legal question.

There were many, both in and out of Congress, who shared the views of the *New York Herald* that this devolution of the decision, with all its attendant responsibilities, upon the Supreme Court, was a cowardly act, and would only serve to fan the flames of discord.[1] It was in addition justly remarked that the bill by no means, as its originator claimed, preserved an absolute impartiality between the two parties, and that just as little did it really remove the question from the political arena, and withdrew

[1] "The extraordinary report of a new compromise, proposed by Mr. Clayton, from the committee of eight in the Senate, has opened up its (the slavery question) aspect in a new, a fresh, and a remarkable, but a cowardly view. * * * We are persuaded, therefore, from the symptoms which have already shown themselves, that the discussion and settlement of this question in Congress will by no means settle it out of doors, but will produce an animated and warm controversy throughout the whole press and the whole Union, on the cowardly conduct of Congress, in seeking to shove it upon the Supreme Court." Niles' Reg., LXXIV., p. 57. Dix said in the Senate: "It is an evasion of responsibility, which will defeat its own purpose. It is sowing the seeds of a future agitation, vastly more profound and exciting than this. It is a temporary colonization of this controversy, to be sent out to the Pacific to stir up dissension among the first settlers, and then to be brought back here, after a time, to renew agitation among ourselves." Speeches, I., p. 378.

it from the influences of the interested considerations that there prevail. Until the legal question had been decided, no one would have been able to prevent the introduction of slaves into the territories. But if, as was now only too evident, it was not an easy matter to exclude slavery from a free territory, it was surely ten times as difficult to get rid of slavery once actually established in a territory. The time that must elapse before the question could be decided whether slavery could lawfully exist in the territories, was so much time granted to the slaveocracy to entrench itself firmly in the territory with its "peculiar institution." There could be no doubt that it would improve the time to the best of its power,[1] and considering the state of

[1] In the territories now under consideration the danger was, to be sure, considerably lessened by their geographical situation. California and Utah had absolutely no direct connection with the slave domain, and New Mexico, too, was virtually completely isolated. If the slaveholder in case of need could escape with his slaves over the protecting boundary of a slave state, the prospect of great gain might tempt him to the daring venture of entering a domain where an interrogation point was the only law with regard to slavery. But so long as he could profitably employ his slaves elsewhere in perfect security, he would hardly remove to a country where he would be certain to lose the whole of his human capital if the question of the legality of slavery should finally in one way or another, be answered in the negative. Clingman, of North Carolina, complained, on the 22nd of January, in the House of Representatives: "I may remark further that but for the anti-slavery agitation, our southern slaveholders would have carried their negroes into the mines of California in such numbers, that I have no doubt but that the majority there would have made it a slaveholding state. We have been deprived of all chance of this by the northern movements, and by the action of this House, which has, by northern votes, repeatedly, from time to time, passed the Wilmot proviso, so as in effect to exclude our institutions, without the actual passage of a law for that purpose. It is a mere farce, therefore, without giving our people time to go into the country, if they desire to do so, to allow the individuals there, by a vote, to exclude a whole class of our citizens." Congr. Globe, 31st Congr., 1st Sess., p. 202. In California, however, the insecurity of the title might be counter-

affairs that then prevailed we cannot stigmatize as visionary the fear of the friends of freedom that it would be aided in extending this time, as far as possible. The courts could not be set in motion till a particular case was brought before them, and in the thinly settled territories whose inhabitants were for the most part completely taken up with their own personal affairs, a considerable time might easily elapse before even this was done. And even then the parties would appear before the territorial judges appointed by the President, when politics could exercise an influence indirect, it is true, but most decisive. It needed not, in order to fear this, to agree with the *New York Tribune*, that Polk would indubitably select for these offices the

balanced by the hope that the slave in a short space of time would extract his full value from the golden sands. Weighty voices in the south gave their testimony that California, in spite of its geographical situation, could be protected against slavery only by an express prohibition. Mason said: "We have heard here from various quarters, and from high quarters, and repeated on all hands * * * that there is a law of nature which excludes the southern people from every portion of the state of California. I know of no such law of nature—none whatever: but I do know the contrary, that if California had been organized with a territorial form of government only * * * the people of the southern states would have gone there freely, and have taken their slaves there in great numbers. They would have done so because the value of the labor of that class would have been augmented to them many hundredfold." Ibid., Append., p. 510. And some weeks later, he declared that the contest might even then be settled by the principle of the "Clayton Bill," which had been formerly approved of by the south, although some other terms of compromise would be better. "This would require that so much of the territory of California as has recently been erected into a state government, should be remanded into a territorial condition, and so retained until reasonable time was allowed to citizens of the southern states to remove there with their property, if they chose to do so," [that is, "trusting to the constitution for the protection of our property when taken into the territories, and merely providing proper forms of redress through the judicial tribunals."] Ibid., p. 650.

most fanatical partisans of the slavocracy.[1] So strong had become the conviction of the fearful extent to which this question had penetrated into the life of the people, that any President, more or less consciously, would have allowed it to influence him in filling these offices, if its decision had been made so largely dependent thereon. And even had this not been the case, where could the judges have been found who had stood so wholly removed from the living thought and feeling of the people, that their legal thought had remained entirely unaffected by the controversy which for decades had become a formative principle in the Nation's life? The mere feeling of the daily increasing impossibility of this impartiality caused the proposal to leave the final decision to the Supreme Court, to be rejected, even where it was not believed, as it was in the more radical circles of the north, that this court had already degenerated into a submissive instrument of the slavocracy.[2]

[1] "A governor and three judges are to be the law makers and law expounders in each territory—said governor and judges appointed by Polk, and of course chosen among the most determined, wily and unscrupulous champions of slavery extension. Nobody can pretend to doubt how they will construe the constitution." Niles' Reg., LXXIV., p. 56.

[2] Corwin, of Ohio, told the southern Senators to their face, that they never would vote for the bill if they thought it possible that the Supreme Court would decide against them. Deb. of Congr., XVI., p. 229. And in the article of the *Tribune* referred to, we read: "But an appeal may be taken to the Supreme Court—a body in which there is a clear majority of slaveholders without counting the doughfaces, who comprise nearly all the residue. We are to accept the arbitrament of this utterly irresponsible, notoriously one-sided and very limited body—five of the nine slaveholders, and eight of the nine partizans of the boss doughface for President—instead of Congress consisting of two hundred and ninety members, about equally divided in politics, a majority from the free states, and nearly all immediately dependent on the people. * * * Let this bill pass as reported, and we shall have an immediate organization of each territory, under in

Far more weighty than all these considerations was another to which Miller, of New Jersey, gave sharp, definite expression in one word. The question is a political one, and, therefore, no decision of the Supreme Court can ever be accepted by the losing party as a final settlement.[1] However emphatically Congress might decree that it was to be a legal question, it was in fact a political question, and as such could receive its final decision only from the legislative power. Political questions, not only by repeated decisions of the Supreme Court, but, above all, by their very nature, belonged exclusively to the forum of Congress. And, if they had at this time succeeded in conjuring into the constitution in some way a provision which expressly gave to the Supreme Court, and to the Supreme Court alone, the right and the duty to decide on the permissibility of slavery in the territories, the party against whom the decision was rendered would not have submitted for any length of time, and Congress, or the sword, would have had to give the final decision. Either course would have been a revolution, but facts are mightier than any laws which oppose them. The Clayton compromise was not merely cowardly—it was absurd. When, on the 26th of July, the Senate passed the measure, by a vote of 33 to 22, it openly avowed that it stood helpless before the prob-

fluences most hostile to free labor and free soil. Slaves will be carried and held there, and the territorial judges will pronounce the whole a fair business transaction. Then the Supreme Court has only to defer a decision until slavery shall have become strong enough to organize state governments and apply for admission into the Union. After that the court may decide as it sees fit; slavery will take care of itself." Badger, of North Carolina, said: "He had a respect for the Supreme Court, but he was not willing to leave the decision of the question to a court, so large a portion of which were opposed to slavery." Deb. of Congr., XVI., p. 234.

[1] Ibid., XVI., p. 227.

lem, and, therefore, like the hunted ostrich, tried to hide its head in the sand.

The House of Representatives also had nothing to suggest, but it properly rejected this proposal. On motion of Al. H. Stephens, the bill was laid on the table without debate by a vote of 112 to 97.[1] Some of the Democrats wished to have it believed that this was a party maneuver of the Whigs. Stephens himself, however, declared that he had acted solely in the interests of the south, because the bill, though covertly, was a complete sacrifice of the just claims of the south to an equal share in the newly acquired territories, since the Supreme Court would infallibly have to pronounce against the claim that slavery was allowable, that is, legal, in these territories, solely by virtue of the constitution. He relied in making this statement not on the actual or supposed views of the individual judges, but based his proposition on an entirely objective legal argument.[2] Slavery was abolished in Mexico, he said, by the decree of the 15th of September, 1829. But, according to the principles of international law, the laws, rights and institutions of a country, acquired by conquest or otherwise, remain in force until they have been legally changed by the new government. This principle has repeatedly received express recognition from the Supreme Court.[3]

[1] Neither the Senate nor the House voted by political parties. In the Senate, 26 Democrats and 7 Whigs voted for the Clayton compromise, and 10 Democrats and 12 Whigs, 4 of whom were from southern states, against it. In the House 31 northern Democrats voted for Stephen's motion together with 73 northern and 8 southern Whigs, while 27 southern Whigs, 49 southern and 21 northern Democrats voted against it. Thus, among the ayes there was no southern Democrat and among the noes no northern Whig.

[2] His excellent speech may be read in Cleveland's Al. H. Stephens in Public and Private, pp. 334–352; as well as in the Congr. Globe.

[3] He cites: Wheaton's Rep., VIII., p. 589; XII., pp. 528–535; Peters' Rep., I., pp. 517, 542, 544; VI., p. 712; VII., pp. 86, 87; VIII.,

Slavery, therefore, does not exist in New Mexico and California, for "the constitution recognizes and guarantees slavery wherever it exists by local law, but establishes it nowhere, where it is prohibited by law."

Herein lay the proof that the question now before them was not, as the more moderate southern representatives claimed, analogous to the contest that had been settled by the Missouri compromise. In the inhabited portions of the Louisiana territory, slavery existed at the time of its purchase. If the south had not had the firm ground of this fact to stand on, it would hardly have been able, with all its audacity, to compel a partition. In California and New Mexico, on the contrary, slavery not only had no actual existence, but it was prohibited by law. Unless, therefore, the mere fact of the acquisition of these territories by the United States had abolished these laws as in contradiction with the constitution,[1] it followed that some

pp. 444, 465; IX., pp. 133, 736, 747–749; X., pp. 305, 330, 721, 732; XII., p. 412.

[1] This was maintained by Calhoun and the other radicals of the south, on the ground that the principle of international law, above referred to had no application to "political" laws, and that the prohibition of slavery was such a political law. The first statement was correct, if the word was taken in its narrowest sense, but for the second not even the shadow of a proof could be adduced. They, accordingly, made no attempt at proof, but only asserted it with apodietic certainty appealing to the fact that "slaves are made by the constitution of the United States a part of the basis of taxation and of the representation of the people in the House of Representatives." This assertion was, however, itself wholly unfounded. The basis of direct taxation and representation was simply the population, and the constitution only provided that, for this purpose, one part of the population should not be counted at all, and another according to a fixed ratio. In No. 53, of the Federalist, Jay, says, with regard to this provision of the constitution: "The constitution * * * which regards them [the slaves] as inhabitants, but as debased by servitude below the equal level of free inhabitants, which regards the slave as divested of two-fifths of the man." If, then, the prohibition of slavery in the new territories

action of the legislative power was required to made possible the introduction of slavery there. Stephens, Badger, Clingman, Reverdy Johnson, and others, therefore, pronounced the jurisdiction of Congress with regard to slavery in the territories beyond a doubt, for if it had no jurisdiction slavery was *eo ipso* excluded from the districts acquired from Mexico. By this course, however, they made it impossible to base the claims of the south upon positive right; they could only appeal to "justice," that is, raise claims for fair dealing. Nevertheless, they too closed with a catagorical "either, or," only it was not uttered in so defiant a tone as that of their more radical colleagues. Reverdy Johnson, whose character and peaceful legal habits of mind made him take little pleasure in the rôle of political Hotspur, and who was not forced to assume this part by the views and interests of his constituents, thought himself bound to point dispassionately, but distinctly, to the fact, that the states could not remain united if the north insisted on its right to exclude, by law, the south and its slaves from the new territories,[1] and Stephens urged the southern representatives not to grant a dollar for the carrying out of the treaty, till the rights of the south

was to be regarded as a political law, which was *eo ipso* abolished by their annexation to the Union, this could only be maintained on the ground that the prohibition was inconsistent with a fundamental principle of the political organization of the Union. In this case, it would follow that the prohibition of slavery in any other territory must be unconstitutional, while the states themselves, that is the constituent members of the Union, would be absolved from the binding force of this fundamental principle. The argument thus finally landed in the absurdity that a territory, which was not represented at all within the meaning of the constitution, was bound by this fundamental principle relating to representation, but that, from the moment when, by its admission as a state, it became entitled to representation, this principle lost all its binding force.

[1] Deb. of Congr., XVI., p. 247.

had been secured. By coupling the money grant with the bill for the organization of the territories, they could compel a recognition of their rights.

The south being in the minority, could not accomplish anything even with this "lever" unless it found support among the representatives of the north. The whole previous history of the slavery question, it is true, showed that it might well be of good cheer on this point. It was another element that made the issue of the struggle appear doubtful. The south was a unit in the claim, that at least a portion of the new territories must be opened to slavery; but, as to the means by which this result was to be accomplished, the views of its representatives were more widely divergent than they had been in any previous contest in behalf of the slaveholding interest. With some, confidence of victory in the political arena was so much shaken,[1] that they were ready to throw themselves into the arms of the Supreme Court; others thought that all would be lost by this course, and advised the employment of coercive measures to place the situation temporarily in their hands; a third party denied equally the jurisdiction of the legislative and of the judicial authorities, and refused to hear anything of the right of the territories to determine the question for themselves. They demanded everything in the name of the constitution, but omitted to say how the constitutional right of the south was to be maintained peacefully and constitutionally against the opposition of the more powerful north. Thus, they not only differed as to the how, but also on the legal question, they were as little able to come to an understanding with each other as with the north. Nor was this any mere academic contest.

[1] The *Nashville Union* wrote: "It will not do to trust Congress with the settlement of the question, because there the south is in a minority." Niles' Reg., LXXIV., p. 57.

What effect could it have on the north, that a portion of the slavocracy shrank from continuing the contest on the open field, that another part claimed an inviolable right to all the present and future territorial domain and boldly called in question the binding force of the old compromise,[1] while a third confessed, that in this instance, it could find no footing in positive right, which was the only thing that could have forced the slightest concession from a large and ever growing portion of the population of the northern states? While the successes of the past with iron necessity drove the slavocracy to a continual and rapid raising of its claims so that its extreme wing had already reached the outmost limits of the obtainable, within it was being divided more and more into stiffly opposed factions. The solidarity of their interests had hitherto been an impenetrable breast-plate, but now dissensions within revealed that this breast-plate was not cast of one piece and that the weapons of a skillful and powerful foe might well find a way through its joints to the flesh beneath.

How far the north would have the courage and the skill to avail itself of this, could not now be foreseen, but it certainly was not to be expected that the south would carry through its claim this session, since all it had thus far done was to reveal more clearly its own disunion. The House by setting aside the Clayton bill had also thwarted the plan of the southern senators to exercise a pressure upon

[1] Brown, of Mississippi, said: "The (Missouri) compromise has been called a contract. * * * The compromise is wanting in all the elements of mutuality which render a contract binding, and is therefore void." Congr. Globe, 30th Congr., 1st Sess., Append., p. 647. And Westcott, of Florida: "For myself, I do not regard the compromise act of 1820 as a whit more warranted by the constitution than was Mr. Sergeant's proposition to extend the principles of 1787 to all 'exterior territories.'" Ibid., 30th Congr., 2d Sess., Append. p. 57.

the north by coupling Oregon with the new territories. It proceeded with the consideration of its own bill for the organization of Oregon, and, after rejecting by a vote of 114 to 88 a motion to strike out the hotly contested 8th section, it passed the bill on the 2d of August by a vote of 129 to 71.[1]

The Senate referred this bill to the Committee on Territories, which moved the insertion of a clause assigning as the express reason for the section on slavery the fact that Oregon lay to the north of 36° 30′. Douglas further remarked that "the amendment was reported with the unanimous desire of the committee that no Senator's vote on the bill should be understood as committing him on the great question.[2] The Senate rejected the motion of the committee as "ambiguous" in form, but afterwards passed by a vote of 33 to 21 a motion of Douglas, identical in substance but somewhat differently conceived. The House, however, rejected this amendment, on the 11th of August, by a vote of 121 to 82.

They now stood just before the close of the session. Was it to end absolutely without results, or would one of the two Houses give way? A last pressure from without decided the question.

The Buffalo convention which, according to the programme, had assembled on the 9th of August, had led to the desired consolidation of all the elements which were united to oppose with political weapons the further growth of the slave power, and which in accordance with the actual state of affairs wished to make this contest the principal party question. The platform of the new party, which called itself the Free Soil party, declared it to be the duty of the Federal government to free itself from all

[1] Congr. Globe, 30th Congr., 1st Sess., p. 1027.
[2] Ibid., p. 1048.

responsibility for the maintenance of slavery wherever its constitutional powers made it answerable for the existence and continuance of that institution; it demanded the prohibition by a federal law of the extension of slavery into territory then free; and gave to the "demand for more slave states and more slave territory," the "calm but final answer: no more slave states and no more slave territory."[1] Van Buren, and Charles Francis Adams, the son of John Quincy, were nominated for president and vice-president of the United States.

Wilson assures us that the greater number of the delegates, who had always been hostile to Van Buren, and to whom he had been especially distasteful as the "northern man with southern principles," had voted for him because they expected that many Democratic votes would be cast for him and because they were willing to make any sacrifice for the cause.[2] The first reason is intelligible, and it may well be that these delegates really believed that they were making a meritorious personal sacrifice by voting for the man in spite of their judgment of his past. But the sentence, with which Wilson concludes: "Principles not men, however, had become their motto," is passing strange. Surely the phrase has always been understood to mean, that regard for persons is to be subordinated to principles, but never has it meant that, in the contest for the maintenance of principles, the character of the men to whom it is intrusted to represent them, is a matter of indifference. It was just this lack of principle on the slavery question, and partly also on other questions, that constituted the great reproach which weighed upon Van Buren, and what ground was there for the assumption that

[1] See the platform in Goodell, Slavery and Anti-slavery, pp. 479, 480.

[2] Rise and Fall of the Slave Power, II., p. 155.

he had experienced a radical change of heart over night? He was the originator of those harsh-sounding, unintelligible and yet so pregnant sentences on the slavery question, that still seemed good enough to the Democratic party to enter upon the campaign with; as late as the autumn of 1847, he had said that the weal of the Democratic party would always lie very near his heart; and that he owed it every sacrifice;[1] he now congratulated the convention, in his letter of acceptance,[2] on its prudence in adopting no definite position with reference to slavery in the District of Columbia; he asked them to show a spirit of considerate forbearance where slavery was under the authority of the federal government,[3] and finally he declared expressly that he still thought his attitude, when president, towards slavery wholly right, although it was chiefly to this that he owed the name of "northern man with southern principles." Principles and principles alone, and not persons nor considerations of momentary interests of whatever nature had to be in all sincerity the motto of the party

[1] In a letter of Oct. 20, 1847, to S. P. Collins, editor of the *Republican Farmer*, Wilkesbarre, Pa., in which he declines the honor of being brought forward by the latter as the Democratic candidate for the presidency, we read: "That any state of things will hereafter exist in which this indulgence of my own preferences would, in the opinion of true and faithful friends, conflict with my duty to the political party to which my whole life has been devoted, and to which I owe any personal sacrifice, is in the last degree improbable. I appreciate and honor your anxious desire to see the integrity and firmness of the Democratic party of the Union fully vindicated. As far as the temperate but steady action of one who is, by his position and a just observance of its proprieties, debarred from active participation in partisan conflicts, can aid in restoring its former efficiency, in rekindling its waning zeal, and in preserving the high and pure character for which it has been long and rightfully distinguished, you may confidently rely on my coöperation." Niles' Reg., LXXIII., p. 172.

[2] It is printed in full in Gardiner, The Great Issue, pp. 141–150.

[3] "A spirit of considerate forbearance towards the institution, in localities where it was placed under the control of Congress."

that would then take up the contest with the slavocracy with any prospect of success. But the people could never be made to believe that a party which chose Martin Van Buren for its leader in this contest had adopted this motto "in spirit and in truth."

By the nomination of Van Buren, the Free Soil party had destroyed its own viability, but for the moment all the opponents of both parties had been brought into one fold, and it might, therefore, easily happen that the issue of the campaign would be again indirectly determined by them. And if Oregon should again be refused organization as a territory, simply because the south had not yet been able to secure its portion of the Mexican spoils, righteous indignation would certainly drive many into the camp of the Free Soil party, who would otherwise have remained true to the old standard. This consideration[1] finally broke the stiff opposition of the majority of the Senate. After a long final debate, that lasted till Sunday morning (Aug. 13), it allowed its amendment to drop by a vote of 29 to 25, and the bill was passed in the form given to it by the House.

Contrary to all precedent, Polk accompanied his approval of the bill with a verbose, argumentative message to the House of Representatives, ending with the declaration that he had given his assent only because the bill "was not inconsistent with the terms of the Missouri compromise."[2] This showed what was to be expected from him, if the contest for the new territories should be renewed at the next session. Even if it was supposable that the

[1] Chase writes: "Thus ended the work of this great (Buffalo) convention, to the assembling and acting of which is attributed, and I think justly, the passage of the bill organizing the territory of Oregon with the prohibition of slavery." Warden, Private Life and Public Services of S. P. Chase, p. 319.

[2] Deb. of Congr., XVI., p. 255.

north would win a complete victory, this victory would necessarily remain fruitless, since the President had already announced his veto. But the attitude of the Senate made all such illusions impossible, and Clay's expectation was well founded that the members of Congress would not return to Washington in a better or more conciliatory frame of mind.[1] For months had the contest raged with the utmost energy and with ever increasing bitterness on a question of whose very existence the national conventions of both parties appeared wholly ignorant. Nothing had been accomplished except that the south had been forced to abandon its design of using Oregon as a lever; and Congress adjourned on the 14th of August with the certainty, that, after a few months, the contest would have to be begun again more hopelessly and more bitterly than before. On the same day, Clay wrote to Stephens that he should not be surprised if public opinion should begin to urge a recession of New Mexico and California.[2]

[1] Ibid., p. 242.

[2] Colton, The Last Seven Years of the Life of H. Clay, p. 472.

CHAPTER XIV.

SECOND SESSION OF THE THIRTIETH CONGRESS — CONTINUATION OF THE CONTEST FOR THE TERRITORIES — BREAKING UP OF THE SOLIDARITY OF VIEWS AND INTERESTS OF THE SOUTH.

When Congress assembled again on the 4th of December, the prospects of a settlement of the territorial question had improved to the extent that the parties were no longer hampered by anxious regard for the influence their decisions might exercise on the presidential election. Each of the two great parties had carried fifteen states, but the Democratic states cast only 127 electoral votes, while those of their opponents gave 163. That Taylor's victory was not an overthrow of the Democratic party was sufficiently clear from the fact that there were eight slave states among the fifteen states carried for him. The Free Soil party had been defeated in every state, as it could not but have expected, but it had cost almost 300,000 votes,[1] of which 120,000 had been cast in New York alone, and had thus decided the contest against the Democrats; and the thirty-six electoral votes of New York were the weight on which it depended which scale of the balance was to mount aloft. Pennsylvania alone with its twenty-six votes could have now saved the Democrats, but Pennsylvania now paid them its debt of gratitude for the false game they had played with it in the last election with

[1] According to Warden, Private Life and Public Services of S. P. Chase, 291,678; according to the *Independent* of December 30, 1852, 292,828. I do not remember of having met an official statement.

regard to the tariff. The free western states had, without exception, voted for the Cass electors, and the vote of the Free Soil party had been quite small; even in Ohio it had only reached 35,494 votes. The immediate future, however, was to show that no conclusion could be drawn from this as to the position these states would take if the question of the extension of the slave territory should be presented to them free from all accessory questions.[1]

The issue of the election had thus given only negative results, as far as the territories were concerned. If the Democrats had been victorious, it would have been certain that during the next four years the entire influence of the executive would be exerted in favor of the slavocracy, if not in favor of their extreme demands, at least in favor of the extension of the line of the Missouri compromise, or of the possibilities that the principle of squatter sovereignty would offer to slavery. Now, on the contrary, nobody could foretell anything of the attitude of the future president and of the ruling party on this question, and all movements were enveloped in a denser cloud than before. Due consideration of the particular facts we have cited above left no doubt that the south could not count on finding the opposition timider and less violent in its movements, and it had, furthermore, become far more urgent

[1] A letter from Dubuque, Iowa, Jan. 18, 1849, to the *Independent* says: "The Free Soil question * * * has many advocates, and excites much interest here. The recent vote at the presidential election was no test of the opinion in the northwest. Many strong 'Free Soilers' would not support the Van Buren ticket for various reasons—dislike of the man, and of the managers, and of some points in the policy of the party, and because they believed that to vote for it was virtually to defeat the object in view. If the naked questions of free soil or slavery in the territories were presented to the people of this section of the Union, there would be an overwhelming majority for the former."

than could have been expected at the close of the last session, that a decision should be reached at last.

The President's message of the 5th of December informed Congress that, by an order of the Secretary of State of the 7th of October, he had called upon California and New Mexico to obey for the time being the provisional governments established during the war. These governments had, it is true, lost by the conclusion of peace all authority resting on the rights of war, but it was necessary that they should be regarded as "*de facto*" governments, and the territories could have no other till Congress should have provided for them by law. This communication was preceded by a portrayal of the prevailing state of affairs in the territories which "imperiously" required that Congress should not allow this session, too, to pass by without fulfilling its duty.[1] What was there said amply sufficed to justify the word "imperiously," but how critical the condition of California really was, and how much worse it would inevitably become in a very short time, could not be even approximately learned from the message.

The existence of the noble metals in the country was, as Polk remarked, already known at the time of its acquisition; but so little was really known about it, that the fact had not been deemed worthy of any consideration. An accident led to the discovery that the quantities of gold concealed in its rivers and mountains were such as would inevitably force its development into paths peculiar to itself, and give it an impulse of simply unexampled power. At Coloma, 45 English miles northeast of Sacramento, on the 19th of January, 1848, James W. Marshall, while erecting

[1] Statesman's Man., III., pp. 1733 1734.

a saw-mill for a Swiss[1] named Sutler, found yellow grains of metal in the sand, which he took for gold. The workmen made themselves merry over his discovery, but when a specimen of the find had been pronounced genuine gold by specialists in California, Sutler soon found reason to complain that his men occupied themselves more in searching the sand, than with their work in the mill. It was not until the end of March, however, that general attention began to be attracted in San Francisco to the gold dust that came from Coloma, but the interest then rose in a few weeks to the intensest fever heat. On the 29th of May, the *Californian* ceased to appear, and on the 14th of June the *Star* also suspended publication: the editors and type setters had started for the gold washings. California no longer had a journal, the population of San Francisco was disappearing visibly, in the summer began the emigration from Monterey, Santa Cruz, and Los Angeles to the gold washings; in the autumn, even the Sandwich Islands and Oregon sent in their contingent to the gold diggers. The prices of all articles of necessity began to rise to a fabulous height, the means of life were scarce, but gold flowed in ever increasing quantities to San Francisco. The entire export of the year 1847, had represented a value of $160,000, and before the close of 1848 two millions of gold had been exported. In the second half of September, the eastern press began to tell its readers how the fables of the nursery had been realized in California, where one had only to stoop down to gather gold from the ground. For a time people tried not to put too much faith in these marvelous reports, but in the next moment their imaginations took possession of them with all the passionate energy and exuberant activity of which

[1] According to others he was a Bodenese. I am unable to state which account is correct.

this people is capable, when the favors of the goddess Fortune is to be won by audacious ventures. California was the one inexhaustible and never wearying theme of conversation for old and young, poor and rich, and the young who were eager to become rich saw the yellow grains glittering before their eyes day and night so seductively that they soon had but one wish—to start as soon as possible for the golden land. The son was deaf to the doubts and warnings of his parents, the bridegroom stopped the mouth of his beseeching bride with a kiss, and a reference to the brilliant future; "for one short year only" the husband tore himself away from wife and child, and soon in innumerable houses the old people were asking with anxious foreboding, with which the tempter mingled something of secret hope, when the gold fever would require a victim under their roof. No vocation, not even the ministry, afforded security against the infection, and at last any ship, even the ferry boat built only for river service, was good enough to trust with one's life on the sea. According to the *New York Tribune*, between the 7th of December, 1848, and the 9th of February, 1849, 137 ships with 8,098 emigrants had set out for California, and towards the end of March, the *Herald* reckoned 270 boats of all classes, with 18,341 passengers in all.[1] The ships which arrived safely at San Francisco remained there, for no sooner had they come to anchor than their crews were metamorphosed into gold diggers. Many a captain had finally no other choice than to follow his men, and the bay was for a time covered with a perfect forest of the masts of deserted ships. The very soldiers deserted in squads; and the commanders recom-

[1] Niles' Reg., LXXV., pp. 113, 193. Where no other sources are mentioned, I have followed the account of Hittell, A History of the City of San Francisco.

mended that no new ones be sent, since it would certainly be impossible to retain them.[1]

There were many thoroughly excellent men among the immigrants, but the percentage of unbridled adventurers of all nationalities was frightfully large, and it was impossible to foretell what proportions would be assumed by the wild stream of anarchy that was pouring itself into the

[1] October 25, 1848, Commodore Jones reports from Monterey to the Secretary of the Navy: "Nothing, sir, can exceed the deplorable state of things in all Upper California at this time, growing out of the maddening effects of the gold mania. * * * I shall be enabled to keep on this coast until the whirlwind of anarchy and confusion confounded is superseded by the establishment of some legal government potent enough to enforce law and to protect life and property, which at this time is in great jeopardy everywhere outside our bulwarks." And on the 2d of November: "For the present, and I fear for years to come, it will be impossible for the United States to maintain any naval or military estalishment in California; as at present, no hope of reward or fear of punishment is sufficient to make binding any contract between man and man upon the soil of California. To send troops out here would be needless, for they would immediately desert. To show what chance there is of apprehending deserters, I enclose an advertisement which has been widely circulated for a fortnight, but without bringing in a single deserter. Among the deserters from the squadron are some of the best petty officers and seamen, having but few months to serve, and large balances due them, amounting in the aggregate to over ten thousand dollars. * * * The commerce of this coast may be said to be entirely cut off by desertion. No sooner does a merchant ship arrive in any of the ports of California, than all hands leave her; in some instances captain, cook, and all. At this moment there are a number of merchant ships thus abandoned at San Francisco, and such will be the fate of all that subsequently arrive." The paymaster, W. Rich, writes to General Towson, Oct. 23, 1848: "I arrived here on the 18th inst., from San Diego, and have paid the four companies of the 1st New York Regiment in full, and they have all started for the gold mines. * * * Nearly all the men of company 'F,' 3d artillery, have deserted. We have the Ohio, Warren, Dale, Lexington, and Southampton in port, but they cannot land a man, as they desert as soon as they set foot on shore. The only thing the ships could do in case of an outbreak, would be to fire upon the town" (Monterey). Niles' Reg., LXXV., p. 70.

wonder-land. Unless a strong government should soon be set up there, a condition of grandiose unrestraint and fearful gaming excitement would be developed there, which, even to those in its midst, would seem like a wild dream. Polk, therefore, could not be too urgent in warning Congress to give the territory a legal organization forthwith. But all his admonitions could not do away with the difficulties that had prevented this from being done in the last session, nor had the President any new suggestions to make for their removal. He confined himself to urging the southern claims for justice and fair treatment, and again proposed the extension of the line of the Missouri compromise. He thought the north could and ought to accede to this all the more readily, that the question was really purely abstract and not practical, since the character of their products and climate would forever exclude slavery from the greater portion of the territories, and it was at least probable that it would be unable to maintain itself in the others.[1] To hear this argument from this mouth must indeed, have excited surprise, since Polk could hardly have expected that the manifest proofs of the great part the slaveholding interest had played in the origin, and in determining the aims of the war, had been already forgotten. There were still voices enough to be heard from the south which distinctly contradicted these assertions of the President.[2]

[1] Statesman's Man., III., p. 1736.

[2] The *Nashville Union* said: "Here is a vast field opened to the wealth and labor of the south, which, if improved, promises a rich harvest. Slave labor can be employed more profitably in mining in California and New Mexico than it possibly can be in any portion of the United States. Thus an extensive domain will be created for slave labor, the surplus of which is now crushing the southern states." Livermore, The War with Mexico Reviewed, p. 193. The old Governor, Troup, also wrote as late as October 1, 1849: "For all mining purposes, slave labor would be as applicable to all countries north of 36° 30′ as south of it." Harden, Life of G. M. Troup, App. p. XIX.

As the President had no other new argument to advance in favor of his proposition, it could hardly be supposed that the House of Representatives would accept it now after having rejected it so often in the past. Douglas, who had always returned to it with such tenacity, had now abandoned all hope, and on the very first day came before the Senate with a new and most surprising plan. He gave notice of bills for the organization of Minnesota, Nebraska, and New Mexico as territories, and of a bill for the admission of California as a state. The absolute patisans of the Wilmot proviso suspected him of wishing to smuggle slavery into California by this bill by means of the provision that all "not inapplicable" federal laws, in which would have been included the 8th, 9th, and 10th sections of the law of March 2, 1807, concerning the importation of slaves, and the slave trade on the coasts and in the interior of the Union, should remain in force in the new state.[1] I do not believe that the right to introduce slaves into California could have been deduced from this provision and from this law, nor do I see sufficient grounds for the assumption that this was Douglas' intention. The little senator from Illinois, who soon became a power in the state, seems to me to be judged from a wrong standpoint when he is charged, as he has been by the radical Republicans, with being anxious for the furtherance of the slaveholding interest. Douglas, whose exterior and manners revealed to a marked and sometimes almost disgusting extent the coarseness and half-culture of the growing west,[2] who had an adroit tongue, a sharp, natural

[1] See on this point Giddings, History of the Rebellion, p. 294.

[2] Adams writes in his journal, Feb. 14, 1844: "At the House, Stephen A. Douglas, of Illinois, the author of the majority report from the committee of elections, had taken the floor last evening, and now raved out his hour in abusive invectives upon the members who

understanding, great presence of mind, a large measure of the shrewdness that borders on cunning, who was always alert and at the right place, and who always presented himself with the entire coarse *aplomb* of the bold, influential, half-educated contestant who is filled with immeasurable confidence in himself. Douglas was not only by profession, but also by nature and inclination, a demagogue, who desired to satisfy the south without breaking altogether with the north, because this seemed to him the only way for the attainment of the highest goal of his ambition. He assuredly was not guilty of the weakness of bewailing the hard lot of the negro, but a man who was born and brought up in the north, and who, since the first years of manhood, had breathed the air of the broad, free west, could not possibly regard slavery with any especial complacency. Utter indifference was the ground tone to which all his thought and feeling with reference to the ethical aspect of the slavery question was attuned. He would have had no particular scruples in himself to overcome in order to allow the free soil of California and New Mexico to be trodden by the foot of the slave, but he was far too shrewd not to recognize how dangerous it

had pointed out its slanders, and upon the Whig party. His face was convulsed, his gesticulation frantic, and he lashed himself into such a heat that if his body had been made of combustible matter it would have burned out. In the midst of his roaring, to save himself from choking, he stripped off and cast away his cravat, unbuttoned his waistcoat, and had the air and aspect of a half-naked pugilist. And this man comes from a judicial bench, and passes for an eloquent orator." Mem. of J. Q. Adams, XI., pp. 510, 511. On a later occasion he calls him "the *homunculus* Douglas." Douglas quarreled with his southern party associates on "the constitutionality of appropriations for the improvement of western rivers and harbors." On this Adams remarks: "The debate was continued between the conflicting absurdities of the southern Democracy, which is slavery, and the western Democracy, which is knavery." Ibid., XII., p. 11

would have been, in view of the tone of feeling in the north, for a politician aiming at the presidency to open the territories to slavery by direct legislative interposition however cunningly masked. The extension of the line of the Missouri compromise to the Pacific, and squatter sovereignty, were the limits to which he thought he could go in the service of the south without losing the ground beneath his feet in the north; and the proposal of the immediate admission of California as a state, appears to me to have been only an application of the principle of squatter sovereignty conceived in a peculiar way. There was no such urgency in the case of the other territories, but it was necessary that California should receive a legal organization without delay, and this was the only way to get rid of the vexatious question, and to leave it to the heterogeneous, and as yet wholly incoherent, multitude to decide as seemed best to them, without having to wrangle over the jurisdiction of Congress, or burden the too tender conscience of the north, for was not the state "sovereign" in this regard?

The plan would have infallibly met with unanimous approval, if all parties had been solely concerned to escape the necessity of a decision. But it had nothing to recommend it to those who still hoped to reach a decision in their own favor. All the political objections that could be raised against squatter sovereignty were applicable to it, and it furthermore gave rise to still other exceptions. There had, indeed, been one previous instance of a district that had never had a territorial organization, being granted admission as a state before it had drawn up a State constitution. But Kentucky had been a portion of Virginia and had arranged with the latter for its own organization as an independent state. The cases were, therefore, not at all analogous, although the history of

the origin of Kentucky was quite exceptional. California had just been acquired, the greater part of the population were wholly unacquainted with the institutions, ideas, and customs of the Union, and did not even understand the English language, and now a society was streaming in there which utterly shamed the old saying that there is nothing new under the sun. Dix, therefore, judged as every sensible man must have judged at the time, when he said that the preparatory school of the territorial condition was more essential in this case than it had ever been before,[1] and the Judiciary Committee, to which the bill had been referred, could, therefore, without reference to the slavery question, find excellent and sufficient reasons for an unfavorable report.[2] But, to the left wing of both parties, the slavery question was the most important and in itself an amply sufficient reason for the rejection of Douglas' proposition.

Already in the struggle over the Missouri question, the north had contended obstinately for the right to annex as a condition to the admission of new states the prohibition of slavery, and now its main object in opposing from the outset all augmentation of the slave territory, was the prevention of the increase in the number of slave states. With what right, therefore, could it now be expected that the north would voluntarily go so far in its recognition of the "sovereignty" of the new state as to leave it perfectly free on this point? Douglas overlooked the fact that here, too, there was by no means perfect unanimity of opinion on the purely legal question, and above all he forgot like the Clayton committee, that the contest was too eminently a political one to make it possible ever to bring about a final

[1] Speeches, I., pp. 423–425.

[2] Jan. 9, 1849. Congr. Globe, 30th Congr., 2d Sess., pp. 190–192.

settlement by a skillful maneuvering about the legal question. For this reason, too, Douglas's measure met with still less approval than in the north, from those southerners who had really become clear in their own minds as to the nature of the slavery question. They had followed the course of events in California with the most intense interest, and their brows had grown more and more cloudy.

The only two papers in California repelled with the utmost decision the blessings of the "peculiar institution," and gave the assurance that the population had but one mind on this subject,[1] and now (Dec. 13th) Benton presented to the Senate a petition from New Mexico[2] which adopted the same standpoint. In this request for the erection of a "government purely civil in its character" we read: "We respectfully, but firmly, protest against the dismemberment of our territory in favor of Texas"; and: "We do not desire to have domestic slavery within our borders; and until the time shall arrive for our admission into the Union as a state we desire to be protected by Congress against their introduction among us."

Here was a new and bitter result of Polk's crooked

[1] The *California Star* writes, March 25, 1848: "The simple recognition of slavery here would be looked upon as a greater misfortune to the territory than though California had remained in its former state, or were at the present crisis abandoned to its fate. * * * We would, therefore, on the part of ninety-nine-hundredths of the population of this country, most solemnly protest against the introduction of this blight upon the prosperity of the home of our adoption." And the *Californian*, on the 11th of October, 1848: "We believe we echo the sense of the country when we assert that slavery is neither needed nor desired here, and that if their voice could be heard in the halls of our national Legislature, it would be as the voice of one man, 'rather than put this blighting curse upon us, let us remain as we are, unacknowledged, unaided.'"

[2] The people of New Mexico in convention assembled, Sante Fé, Oct. 14, 1848. Congr. Globe, 30th Congr., 2nd Sess., p. 33.

policy in the Mexican question, which was now likely to cause interminable embarrassment. If the President had been justified in regarding the boundaries which Texas had decreed itself on its separation from Mexico as the boundaries which he was bound, without further action of Congress, to maintain against Mexico as the actual boundaries of the Union, it followed as a matter of course that the portion of New Mexico east of the Rio Grande belonged to Texas. Senator Rusk, of Texas, therefore, at once entered his "solemn protest," with the words: "We have an incontestable right to the territory which we never can renounce." Polk, however, as we have seen, had aftewards openly and officially acknowledged that Texas had never really owned this district, and he had set up a provisional military government there. This was in perfect accordance with the real state of affairs, for the land had been acquired by conquest and had nothing whatever in common with Texas. An alternative was thus presented that only left a choice between evils. If Texas' claims were not allowed to stand, the President's proof of his assertion that Mexico had begun the war by an unprovoked invasion of Union territory, would be deprived of all foundation.[1] It has already been shown

[1] Howard, of Texas, afterwards said in the House of Representatives: "Sir, the right of Texas has been acknowledged by all the departments of this government in every possible manner. The right of Texas is the only justification of the war with Mexico. It was recognized by Congress, when it declared that the war existed by the act of Mexico. That act was the shedding of American blood upon American soil, on the banks of the Rio Grande. Do gentlemen mean to back out from that vote, and now hold the country up to the civilized world as guilty of a war of conquest and aggression without cause? This cannot be done without disgracing not only the last administration, but the American government and people. It would be to admit before the world the justice of every accusation made against us by Mexico during the war." Congr. Globe, 31st Congr., 1st Sess., p. 206.

why the President, according to the resolutions of annexation, had no right, without the action of Congress, to drive Mexico by force of arms beyond the boundaries claimed by Texas. It must, however, also be pointed out that, on the the other hand, the resolutions of annexation did not contemplate solely the district which had been "Texas" under the Mexican rule, or which at that time was in the actual possession of the Texans. This appears from the clause about the region "north of 36° 30′" which was not "Texas" but New Mexico. This accorded ill with the provision that "the territory properly included within, and rightfully belonging to, the republic of Texas" should be annexed, unless the declaration of boundary made by Texas was regarded as correct. Here, as throughout, the whole affair was managed with insincerity. Benton in his charges against Polk supported himself with special emphasis by the fact that in the Tyler-Calhoun treaty of annexation, the boundaries had been purposely left undetermined, in order to leave the door wide open for an understanding with Mexico.[1] If, on the other hand, the claims of Texas should be recognized as well founded, another broad region would be added to the giant state, a region that resisted this union with all its strength, and had all arguments on its side except the famous boundary declaration of Texas. In either case, however, they would be pouring oil into the

[1] Yet he had himself said, in his speech of the 16th of May, 1844: "The republic of Texas is ceded to us by name: its boundarie are not specified, nor was it necessary to specify them. A state is a corporate body—a unit—one single, sole, embodied thing—with a name to distinguish it, and by that name it acts and passes, without further description or definition. There was no necessity for an exhibition of metes and boundaries. The republic of Texas acts by its name, and passes itself to us in the whole extent of all the limits and boundaries which it asserts to be its own."

fire of the slavery question, for if New Mexico had hitherto been Mexican territory and the Union had procured its cession and paid a good price therefor, it was equally with California free territory, but if it belonged to Texas it was forfeited to slavery.

The petition of New Mexico was one of the most painfully felt blows that the slavocracy had yet received. Calhoun started up and called it "most insolent," because it was an attempt to exclude the victor from the conquered domain; and Westcott pronounced it an "abuse of the right of petition." But what could be gained by invective? It looked as if those representatives of the south would prove to have been right who had said from the first that slavery would never get another foot of territory if the principle of squatter sovereignty should be recognized. If the slavocracy had hitherto been unable to force from the majority of the House of Representatives a renunciation of the right of Congress to close the territories to slavery, whatever might be their views of the population, how could it be thought possible that the majority could be induced to open the territories to slavery against the emphatic protest of the inhabitants? The House of Representatives not only still firmly maintained its position, but on various points it passed over to aggressive action.

In the very first days of the session, Palfrey, of Massachusetts, had asked permission to bring in a bill for the abolition of all laws relating to slavery and the slave trade in the District of Columbia. Permission was of course refused, but, of the northern delegates, 69 had voted for it and only 21 against. With a little more moderation and forbearance in the form, it might yet perhaps be possible to win over the majority to an attack on slavery in the District. Giddings was allowed to bring in a bill permitting the inhabitants of the district to vote on the question

whether slavery should be done away with there. The bill received two readings and was only laid on the table after the discovery by Tompkins, of Mississippi, that, according to its letter, the slaves might also participate in the vote. Gott, of New York, was the most successful. His motion to instruct the committee on the district to bring in a bill forbidding slavery in the district was passed by 98 votes to 88. The alarmed slavocracy, it is true, succeeded in carrying a motion to reconsider the decision, and nothing more was heard of the resolution. The south had thus successfully repelled the attack, but it had no reason to rejoice, for the enemy had developed a strength which would enable him at the next onslaught, at least to carry the prohibition of the slave trade. Public opinion had already taken so decisive an attitude against it, that the trade could be carried on in the district only in secret, and the slaves were taken away under cover of night and darkness. And the District of Columbia was only a ground for outpost skirmishes. The decisive battle would be fought in the territories, and here the south, often as before, was in the minority. On the 13th of December, on motion of Root, of Ohio, the committee on the territories was charged, by a vote of 106 to 80, to introduce a bill, or bills, for the organization of New Mexico and California as territories, with distinct instructions to prohibit slavery.

In consequence of these events, the majority of the southern representatives regarded the situation as so serious that they determined to inflict a great counter blow. On the 23d of December, 1848, 18 senators and 51 representatives of the southern states assembled in the Senate chamber to consider what, if anything, was to be done in order to avert the dangers that threatened their section. A committee of 15 members was appointed to draw up

resolutions, and this committee in turn commissioned five of its members to prepare an address. When the last-named committee assembled to deliberate, Calhoun, who was the originator and guiding spirit of the whole movement, laid before it a draft of an "Address of the Southern Delegates in Congress to their Constituents." On Saturday, the 13th of January, 1849, this draft was after a protracted and animated debate accepted by the larger committee by a majority of one. The Whigs were decidedly opposed to the address, and, as they afterwards openly avowed, had joined the movement at all, only in order to embarrass its originators in the attainment of the objects that they hoped to accomplish by it. On the 15th of January, the committee presented its report. More than 80 Senators and Representatives were present. No reporters of the press were admitted, the doors were locked, and Washington awaited with the liveliest suspense the result of the conference; for it was whispered that Calhoun was resolved upon a disruption of the Union.[1]

The storm was more remote and was to be longer in approaching than the more timorous thought. The address, it is true, was inflammatory,[2] but neither its contents nor its tone was such as to require the south, even had it unanimously concurred in it, to proceed immediately to extremities. The address itself declared its object to be to give a clear, truthful, and brief exposition

[1] Horace Mann writes from Washington the same day: "There is great commotion here in political matters. To-night the Southern Convention, called to see what measures the south will take on the subject of slavery, are to meet. An address has been prepared by Mr. Calhoun, which is said to be in the highest degree inflammatory. It is thought here, by many of the most intelligent men, that Mr. Calhoun is resolved on a dissolution of the Union." Life of Horace Mann, p. 273.

[2] Calhoun's Works, VI., pp. 290–313.

of the attacks and encroachments to which the rights of the south had been exposed, and to point out the dangers to which they must give rise. It charged the north with gross, deliberate, and systematic violation of its constitutional obligations with regard to fugitive slaves—sought to demonstrate from the history of the territorial question that the constitutional claim of the south to equal rights had always been contested, and withheld from her—denied Congress, not only all jurisdiction with regard to slavery in the territories, but in general, the right to take any position whatever with regard to slavery[1]—held up the prospect of the abolition of slavery by an amendment to the constitution in case the north should be allowed to carry through its claim to the exclusive possession of the territories—asserted that the exertions of the north against slavery would inevitably result at last in a complete reversal of the relations between the whites and the colored population of the south, so that nothing would be left for the former but to shake the dust from their feet, and leave the land to their former slaves. The conclusion drawn from all this was, that honor and the duty of self preservation with equal imperiousness required them to protect themselves at whatever cost.[2] This sounded dark and threatening enough, but—the final word was wanting. The entire south must stand as one man and subordinate all

[1] * * * "We hold that the federal government has no right to extend or restrict slavery, no more than to establish or abolish it: nor has it any right to distinguish between the domestic institutions of one state, or section, and another, in order to favor the one or discourage the other."

[2] Erallé printed the address in the form in which it was passed. The most ominous sentences of the original draft which were struck out ran: "Not excepting the declaration which separated you and the united colonies from the parent country. That involved your independence; but this your all, not excepting your safety."

other considerations and interests to the slavery question—this was the only sentence that seemed to have a practical point, and this had been already often heard. "What is to be done * * * ? It is a question belonging to you to decide * * * We earnestly entreat you to be united, and for that purpose adopt all necessary measures. Beyond this, we think it would not be proper to go at present."

It can not be supposed that Calhoun had not laid before himself the question, what was to be done next, and also found an answer to it. The exact character of this answer cannot now be determined. This much, however, is certain that he regarded the immediate disruption of the Union as impossible, even if he really had to come to the conviction that the south would have to have recourse to this, in the event of its defeat in the territorial contest. Only on this supposition, can we explain the fact that the address did not even venture directly to propose a convention of the southern states, but only hinted at the thought in vague and not compromising terms. And the result was to show that Calhoun's judgment was more correct than he could have wished. If the entire movement was not to be a mere idle demonstration, which would have to be recognized as such in a few days, he could not say less than he had said, and yet he had said far too much.

Clayton moved to lay the whole matter on the table, and 28 votes were given for this proposition, the acceptance of which would have turned what was meant for a tragedy into a comedy, which might have exerted a marked influence upon the mind of many a timid northern representative. The Whigs declared that they would not give their assent to the formation of a southern party, till they were prepared for a dissolution of the Union, and this could not be thought of so long as the government did not make itself guilty of a direct attack upon the rights of the

south. Several members of the committee refused to serve on it any longer, and it was finally resolved, by a very small majority,[1] to recommit the report for further consideration.

The next meeting, which was held on the 22nd of January, was much more thinly attended. The committee presented an address, drawn up by Berrien, which in part followed Calhoun's word for word, but which was addressed to the entire people and changed the tone of passionate complaint and threatening challenge into that of an urgent appeal to the patriotism and fair-mindedness of the north.[2] King's motion to accept this draft was, nevertheless, rejected[3] and it was resolved to issue Calhoun's address with

[1] According to Niles' Reg., LXXV., p. 89, by a vote of 41 to 40; Toombs says 44 to 42. On the 22nd of January, the latter writes Crittenden about the meeting: "We have completely foiled Calhoun in his miserable attempt to form a southern party. We found a large number of our friends would go into the wretched contrivance and then determined it was best to go in ourselves and control the movement, if possible. We had a regular flare up in the last meeting, and at the call of Calhoun I told them briefly what we were at. I told him that the union of the south was neither possible nor desirable until we were ready to dissolve the Union. That we certainly did not intend to advise the people now to look anywhere else than to their own government for the prevention of apprehended evils. That we did not expect an administration which we had brought into power would do an act, or permit an act to be done, which it would become necessary for our safety to rebel at; and we thought the southern opposition would not be sustained by their own friends in acting on such an hypothesis. That we intended to stand by the government until it committed an overt act of aggression upon our rights, which neither we nor the country ever expected to see. We then, by a vote of 42 to 44, voted to recommit his report. [We had before tried to kill it directly, but failed.] We are opposed to any address whatever, but the Democrats will probably out vote us to-night and put forth the one reported, but it will have but two or three Whig names." Coleman, The Life of J. J. Crittenden, I., pp. 335, 336.

[2] The address is printed in Niles' Reg. LXXV., pp. 101–104.

[3] According to Niles' Reg., by a vote of 34 to 27; according the *Independent* of the 25th of January, 1849, by 33 to 26.

some softening alterations.[1] The only Whig who had voted for this motion was Gayle, of Alabama, though Tompkins, of Mississippi, afterwards joined them. All told, the address received forty signatures—just enough to save the originators of the movement from ridicule. Even the *Charleston Mercury* admitted in so many words, that it was a complete failure.[2] And not only had the movement miscarried; it had produced just the contrary of the desired effect.

Calhoun's aim had been completely to unite the south on the slavery question on the basis of his radical programme, and it had now become manifest that the Whigs could not be carried off into extreme measures at all, least of all, now, when by Taylor's election they thought that the helm had fallen to their hands. In the border states, fashion had by no means as yet so fully overcome all sober reflection as to make them ambitious of the honor of becoming the exposed outposts of a confederation whose corner stone was to be slavery, and even in the inner states the hot impetuosity of the radicals had re-awakened a vivid consciousness of the multiplicity and strength of the ties that bound the Union together.[3] And this, though preëminently, was not exclusively, true of the Whigs. Even among the Democratic representatives of the south at Washington, men had been found who disapproved of Calhoun's proceedings and who had the courage to say so openly and with emphasis. On the 26th of February, Cobb and Lumpkin of Georgia, and Boyd and Clark of

[1] According to Niles' Reg., by a vote of 42 to 17; according to the *Independent*, by 32 to 19.

[2] It somewhat disrespectfully calls it "the abortive tempest at Washington."

[3] As early as the 20th of January the House of Representatives of North Carolina passed a very decided loyal resolution.

Kentucky, issued an address to their constituents,[1] in which they gave as a reason for their refusal to sign the Calhoun manifesto the fact that in it the northern Whigs and the northern Democrats were classed in the same category. In order to avoid offending their southern associates, the Whigs of the north had not been plainly told that it was they who had ever led the crusade against the slaveholding interest, and the northern Democrats had not received proper recognition for their steadfast fidelity to the south; it was only by a closer union with the latter, and not by the formation of a southern party proper, that the rights and interests of the south could be sufficiently protected. Thus, the four representatives mentioned stood much nearer Calhoun than did the southern Whigs, but the point from which their views began to diverge was so significant, that fears were expressed, even in the Democratic camp, that this difference of opinion might lead to a breach of the Democratic party of the south.[2]

Calhoun's great counter-stroke was thus a blow in the water, hurting the hand that delivered it. The full significance of all these differences of the politicians of the south can be rightly appreciated, only when our eyes are no longer confined to the political centre. In the north, as well as in the south, events were taking place which merited the most serious consideration.

In New York the Whig legislature chose Seward as United States Senator in place of Dickinson, although the more conservative elements of the party had doubtingly asked themselves whether it would not be more advisable, in these stormy times, to send to Washington a man of

[1] Niles' Reg., LXXV., pp. 231–233.

[2] The *Democratic Review* of September, 1849, writes in an article on H. Cobb: "This controversy appears to threaten a breach of the Democratic party of the south, as it has taken place at the north." P. 275.

more moderate views on the slavery question.[1] Seward was far from being an abolitionist. He did not see in the constitution a "pact with hell," still less did he believe that on account of its compromises with the "sum of all villanies," it was necessary to renounce politics, and fight slavery only with moral weapons. Both legally and in his conscience he felt himself as much bound by the provisions of the constitution in favor of the slave interest as by any other provisions, and for a man who from his youth upwards had been an active, ambitious party politician, the proposition that in politics it was necessary to contend with political weapons, was not even a matter of discussion. How entirely he was a man of "political politics," that is to say, one who allowed considerations of policy the first place in his deliberations and in his conclusions, he had shown by the zeal with which he had worked for Taylor's election, and with which he had fought those members of the party who had left the party on account of the slavery question. He pronounced the formation of a third visible party side by side with the Whigs and Democrats an impossibility, and not only maintained that the good cause would be best served by supporting the party which, however great and just cause for complaint it gave to the true friends of freedom, was still more hostile in its attitude towards slavery than was its opponent, but he even stigmatized the formation of the Free Soil party as a direct and serious injury to the interests of freedom, because it would weaken the element favorable to freedom in the Whig party, and might, perhaps, even help the Democrats to a victory. But Seward had already shown as governor that he was not disposed to

[1] See Seward's letter of the 1st of February, 1849, to D. W. Webb. Works, III., pp. 414–416.

give the slavocracy more than it was justified in claiming on the strictest interpretation of the constitution, and that he knew how to meet its unwarranted claims with equal ability and firmness. And the contests that had since then been carried on in national politics had not made his temper more compliant. All his exertions for the election of the programmeless slaveholder Taylor did not prevent him from surpassing the speakers of the Free Soil party in the sharpness of his denunciations of the new pretensions of the slavocracy; and to charge that his only object in this was to prevent a further falling away from the party, would have been simply absurd. The speech that he delivered on the 26th of October, 1848, at Cleveland,[1] with all its politeness, adopted a cutting, decisive tone, such as had scarcely ever been heard outside of the abolitionist circles, and from the mouth of a party politician; and at the same time it stated the essential points in the contest between slavery and freedom in formulas so felicitously conceived, and of such impressive brevity, that neither friend nor foe could any longer doubt that his entrance into the Senate was an event of national importance. And the importance of this event was more than doubled by the fact that simultaneously with him another opponent of slavery was to enter the Senate, who was in many respects his equal, and in some his superior.

Salmon P. Chase had originally been a Democrat, and to the end of his life never succeeded in freeing himself wholly from the doctrines of the Democratic party. In sharp contrast with Seward, he hoped for nothing from the Whigs as a party in the struggle with slavery. In his opinion there would be ground for much greater and, indeed, for the highest hopes, "if we can once get the Democratic party in *motion* regarding the overthrow of slavery

[1] Works, III., pp. 291–302.

as a legitimate and necessary result of principles."[1] There was an element of truth underlying this view. The Whigs were more a party of measures and the Democrats, at least in comparison with them, a party of principles who could be less easily driven by momentary considerations of utility from the pursuit of a goal once determined upon, because, on account of the stricter discipline among their leaders, and the greater dependence of the masses, an anxious regard to persons and side issues was not with them so necessary to ensure success. But for like reasons, it was incomparably more difficult to win them over to a new course. The party was conservative to a degree, that made it absolutely incapable of appreciating the requirements of altering circumstances. It did not need to move with the times, for its inherited capital of ideas and principles was always sufficient to keep the party machine going. If there was any question, however, with regard to which it could not allow the slightest thought of a falling off from its old maxims to spring up, it was the slavery question, for a progressive policy on this point would not only have met with irresistible opposition among the masses of the southern Democrats and their Irish following in the north, but it would have presupposed an essential modification of their fundamental principle of state sovereignty, and hence, on either ground, would have been in itself a dissolution of the party. There were, indeed, Democrats who were determined to make no further concessions to the slavocracy, but the idea of inducing the party, as a party, to take up the contest with slavery was one of the strangest illusions that an American politician could cherish. Nor was Chase himself so wholly taken up with it that he would have

[1] To J. P. Hale, May 12, 1847. Warden, Private Life and Public Services of S. P. Chase, p. 314.

wasted his own strength in this fruitless task. In his view, the proper policy of the opponents of slavery was, not to seek the attainment of their object directly by a party of their own, but, by the controlling weight of an independent organization, to force the national parties to continued work on the great problem.[1] The action of the Liberty party, of which he had been one of the most influential founders, seemed to him to be too much limited by its programme to accomplish this, and he had, therefore, taken a prominent part in the formation of the Free Soil party. Whether this party would correspond to his expectations, and, more particularly, whether the problem could be solved by the methods he recommended, could be decided only by actual trial; but that very desirable results might be reached in this way, was shown first of all in his own case. In the Legislature of Ohio sat two members of the Free Soil party and eleven Whigs, who had been elected with their assistance, and who inclined to their views. The parties were so evenly divided that the decision lay with those two representatives, and with such skill did they play one party against the other, that they carried through the abolition of the so-called black laws, the proverbially severe negro laws of the state, and also the election of Chase as United States Senator.

The name of Chase as an earnest, fiery and adroit agitator against slavery, was already known beyond the limits of his own state, but he had not yet, like Seward, given proofs of practical ability as a statesman in any important office, and there was, therefore, not yet sufficient material to form a well founded judgment of his political capacity. But if his election was thus, from one standpoint, as far as could yet be seen, of less consequence than Seward's, it was, on the other hand, of much greater significance from

[1] See the letter to Hale already cited.

the fact that it had been compelled by the Free Soil party. This was a serious lesson, not only for the Whigs and the Democrats, but also, more especially, for the slavocracy. It had now been demonstrated that those to whom the slavery question was more important than all other questions, might, by skillful employment of favorable circumstances, accomplish great positive results. Since among the population the difference in strength of the two national parties was, for the most part, very slight, and the tide of popular feeling in the north was running more and more against slavery, such favorable opportunities were likely to occur frequently. The south, therefore, would have made a bad miscalculation in attempting to measure the significance of these opponents by their numbers. They were an x of indeterminate, variable value, which forced itself into every member of the political equation, and might acquire an importance that could not now be foreseen if the process of disintegration, to which both of the national parties had now fallen a prey, should go on developing. And it was inevitable that the process should continue, both among the Whigs, who sought to preserve themselves by ignoring the slavery question as a party, and among the Democrats, who were trying to consolidate on the basis of a proposition which admitted the most widely differing interpretations. Neither party could succeed in this, and the attempt might all the more easily lead to the triumph of a third party with a clear and decided anti-slavery programme, because the process of disintegration had by no means been confined to the political parties as such. At the time when Calhoun, to the detriment of his cause, was seeking to unite the Democrats and Whigs of the south, and when the Free Soil party was winning its first positive success, it was shown at various points and in various ways that

the rule of the slavocracy in its own home was neither so absolute nor so secure as it itself and all the world had believed.

When southern statesmen compared the political weight of the two sections in their speeches, they generally counted little Delaware with the north. This was not wholly unjustifiable, and it grew truer every year. Delaware's sympathies, inherited from the fathers of the state, still belonged preëminently to the south, but its material interests turned it more and more towards the north, because in its own economic life slavery was daily becoming a less essential factor. And the same held true in a greater or less degree of all the border states, or at least, as in the case of Virginia, of a large part of their domain. In regions where the contact with the free states was direct, and the personal and economic relations with them more numerous, manifold and strong, than with the planter states, where a larger proportion of the population was collected in villages and towns which were important and prosperous enough to exert in a marked degree the material blessings and civilizing influences of city life—where the material relations of the population were more uniform than in the planter states -where an appreciable part of the population had immigrated from the free states of Europe, excepting Ireland, and where finally a large per cent. of the educated and well-to-do classes were not slaveholders—in these places it was inevitable that the truth should gradually make way, that the interests of the majority were opposed to those of the slaveholding minority, and that this knowledge should lead to efforts to make the institutions and polity of the state conform to the interests of the majority. True it is, that the masses everywhere still lay under the ban of the slavocracy, and would perhaps remain so till they were forcibly freed by

an outside hand; but here and there the number of the discerning ones was great enough to enable them to come forward openly, and to cause the slaveholders to look forward to the future with gloomy anxiety.

In Kentucky, the opponents of slavery were most active and daring, being spurred on by the prospect of a convention for a revision of the state constitution. The *Louisville Courier*, and still more the *Louisville Examiner*, gave them decided support. Clay addressed a communication to Richard Kendell, of New Orleans, in which he emphatically disputed Calhoun's proposition, that slavery was "a good, a positive good," and proposed the gradual emancipation of the slaves according to a scheme which was certainly not liable to the charge of precipitancy; those born from 1855 or 1860 on, should be freed in their 25th year, on condition that they should be settled in Africa.[1] On the 25th of April, 1849, a convention was held at Frankfort, to which 24 counties had sent 156 delegates.[2] Both parties and all classes of the population were represented, and many delegates were themselves slaveholders. The convention drew up no definite scheme of emancipation, but it made the following declaration by a vote that lacked one of being unanimous: "Believing that involuntary hereditary slavery as it exists by law in this state is injurious to the prosperity of the commonwealth, inconsistent with the fundamental principles of free government, contrary to the natural rights of man-

[1] He writes to his son James, March 3, 1849: "As you were absent I sent to Richard Kendell a letter on the Emancipation question. As I regret to hear that it is not popular, I suppose that my letter will bring on me some odium. I nevertheless wish it published. I owe that to the cause, and to myself, and to posterity." Priv. Cor., p. 585.

[2] Niles' Reg., LXXV., p. 301. Wilson, Hist. of the Rise and Fall of the Slave Power, II., p. 177, says 26 counties and 160 delegates.

kind, and adverse to a pure state of morals; we are of opinion that it ought not to be increased, and that it ought not be perpetuated in the commonwealth." Accordingly, it was resolved to work for the choice of delegates to the state convention who would be in favor of the absolute prohibition of further importation of slaves into Kentucky, and who would attribute to the people unlimited authority to adopt a system of gradual emancipation.

The hopes that had been attached to this convention were not realized; although more than 30,000 votes were cast in the sense of its resolutions, it had been possible to elect to the state convention only one friend of the idea of emancipation, and the convention itself pronounced in the most emphatic manner for the inviolability of the property rights of the slaveholder. This was a bitter disappointment to the friends of freedom in the north who had too readily allowed their wishes to become expectations. If they had judged more soberly, they would have recognized that they had no ground for discouragement. The fact that in the state, in which four years previously the press of Cassius M. Clay had been destroyed, a movement such as this could be set on foot and the whole question of slavery so unreservedly discussed, was assuredly in itself a great progress in a short time.

In the other border states, no opportunity was afforded at the time to give so pregnant expression to the tendency hostile to slavery, which had set in in popular opinion, but the tendency was already strong enough to attract attention in the north. The state of affairs in Missouri appeared almost as hopeful to the opponents of slavery as that of Kentucky, in the first months of the year 1849,[1]

[1] The *Independent* of Feb. 8th, 1849, writes: "It is said by papers of St. Louis that thousands of citizens endeavor to prove to the man who objects to coming to their state on account of slavery, that the

and it was already remarked that the Germans of the state refused to be reconciled to slavery,[1] and the Annual Report of the American and Foreign Anti-Slavery Society called attention to the fact that also in West Virginia, in the western portion of North Carolina, and, according to the *Jonesboro' Whig*, even in eastern Tennessee, anti-slavery views were widespread and were gaining ground.[2] Georgia, too, might have been mentioned. Shortly before the assembling of the Frankfort convention in Kentucky, the *Augusta Chronicle* laid before its readers a calculation showing how unprofitable a business slavery was for the state, and how much better it would pay to replace the slaves by white laborers.[3]

In Congress, the southern speakers were accustomed to act as if there was but one view relating to slavery in the south. But the southern press in its zeal frequently let

system is doomed; and some say that the next Legislature will be called upon to consider the great question of its overthrow."

[1] In the Annual Report of the American and Foreign Anti-Slavery Society for 1849, we read: "The people of Missouri have entered into an examination of the system of slavery; and we trust that the non-extension and non-existence of slavery will at no distant day be the watchwords of this growing state. The *Hermann Wochenblatt*, a German paper published in this state, takes the side of Free Soil." P. 50.

[2] Ibid., pp. 52, 53.

[3] "As slaves can only be imported into Georgia by exporting their full value in productive capital, would it not be a wiser policy for this state to keep its money at home, and invite intelligent citizens to come here and settle, who will create more wealth and taxable property than an equal number of slaves, and cost us nothing? One hundred thousand white laborers would cost the commonwealth not a single dollar; whilst they would be worth to it an average of $750 each. We would not only make the most of all the rural industry which Georgia now possesses, by employing it to the best possible advantage: but we anxiously hope to see it in truth and reality an 'Empire' state in population, in wealth, and in the full enjoyment of a tenfold larger productive power." Niles' Reg. LXXV., p. 271.

slip compromising admissions concerning this dangerous movement in the border states. Even from Virginia, in which, in spite of West Virginia, slavery had by far the firmest roots, a fanatical pro-slavery voice was heard, distinctly proclaiming that the state was preparing to rid itself of slavery, in which case, it would draw after it the District of Columbia, Delaware, and finally, even North Carolina and Kentucky.[1]

It did not require these exaggerations to waken in the heart of the realm of "King Cotton" a perception, that a fire had here begun to glimmer which could not safely be left to itself. Its progress was watched there with much more intense interest than in the north, and with no disposition to adopt the rôle of a merely interested spectator. There was but one sure means, not perhaps to suffocate it altogether but to keep it down, at any rate so that it could never burst forth into bright flames. The keen instinct of self preservation caused them to find this means immediately, without feeling dubiously about in search of any palliatives that might offer themselves; but the very fact that they hit upon this method at once, is the best proof how well even the most fanatical slaveholders understood

[1] The *Richmond Southernor* writes: "It is not generally known, yet it is nevertheless true, that two-thirds of the people of Virginia are open and undisguised advocates of ridding the state of slavery; and after the year 1850, when the census is taken, their views will be embodied in such form as to startle the south. We speak understandingly. We have within the last two years conversed with more than five hundred slaveholders in the state; and four hundred and fifty out of the five hundred expressed themselves ready to unite on any general plan to abolish slavery, upon almost any terms. Abolition fanaticism at the north has not produced this, but the annexation of Texas and the acquisition of territory have done it. Virginia may be put down as no longer reliable on this question. When she goes, the District of Columbia is free territory; then Delaware and Maryland will also go, and North Carolina and Kentucky will follow suit."

the real nature of slavery. By the prohibition of the importation of slaves the planter states must force the border states to retain their slaves.[1] This was the only way to preserve the solidarity of the interests of the south to the extent required, and it seemed all the more urgently necessary to the most far seeing politicians, of the planter states proper, immediately to oppose an insurmountable barrier to this movement of dissolution, because, at their own doors, the murmurs at the economic and political "blessings" of slavery began to be very distinctly heard.[2]

[1] "An immediate and extra session of the Legislature of Mississippi is demanded by the citizens of Hancock county, in that state, for the purpose of enacting laws prohibiting the further ingress of slaves from the border states of the south. In their petition to the governor, they represent that the states of Maryland, Virginia, Kentucky, and Missouri, where slavery has ceased to be profitable, from the uncertain tenure by which slaves are held, are now throwing an immense black population on the extreme southern states, which is destined to increase with immense rapidity. To avoid this result, they propose to compel the more northern of the slave holding states to retain their slaves within their own borders." Niles' Reg., LXXV., p. 97. Feb. 14, 1849. In like manner, De Bow's Commercial Review, the highest economic authority in the south, writes: "It is believed by many citizens, that these evils [the neglect of manufactures and the investment of all savings in fresh land and more slaves] would be removed by prohibiting the further introduction of slaves, and that our surplus capital would be invested in a wise and judicious system of internal improvements and domestic manufactures. In my opinion, there is a still more cogent reason for the adoption of this system of exclusion not only by Mississippi, but also by most of the extreme southern states. In the northern slaveholding states, slave labor is but little profitable, and a disposition is already manifested by them to sell us their slaves, and eventually abolish the institution within their respective limits. The wild fanaticism of the abolitionist has checked this evil to some extent, but we should also anticipate it by forbidding the introduction of their slaves amongst us, and thus compel them to be our allies, by forcing them to retain their property, and thus possess a common interest with us in its preservation." Vol. XI., p. 618.

[2] An undated letter, from S. Heydenfeldt to Governor S. Chapman, of Alabama, [printed in Niles' Reg., March 21, 1849, LXXV., pp. 187,

In what a light, however, did these admissions and these facts place the contest for the territories? It was thought requisite to have recourse to the most decisive measures to prevent the border states from gradually ridding them-

188,] affords so deep an insight into the situation that it seems proper to give an extended extract from it here: "It is very evident to any one who is not a careless observer that a restless and uneasy state of public feeling exists in the slave states north of us upon the subject of slavery. Maryland, Virginia, North Carolina, Tennessee, Kentucky, and Missouri are pervaded with a feeling of hostility to the institution, which is only suspended from open exhibition and action by the dread of pecuniary loss, and the hope of finally shifting their slave population for value received upon the southwestern states. This last alternative will doubtless be accelerated by the enactment of prospective emancipation laws; which means simply what it has ever meant by states which have abolished slavery—that is, that their citizens may have time enough to sell us their slaves, and, having pocketed the price, to unite against us in the unjust and bitter crusades of the northern abolitionists.

"It will then be easy to forsee that the gulf states must become the San Domingo of the continent, or rush into a war of extermination, for the utter prostration of their capital.

"The states above mentioned comprise more than half the political strength of the slave states. It is, therefore, wise to endeavor to preserve our strength by keeping them on our side and united with us in the same interest. * * * But a stronger reason for immediate action upon this question lies nearer at home, and may be a startling assertion to those who have never investigated the subject. We have in our midst the germ of an anti-slavery party—not in the northern sense of the term—not men who sympathize with the slaves, and would therefore turn them loose upon society; but composed of those who are wearied with the struggle of unproductive labor; those who deem of slavery that it has produced pecuniarily nought but barrenness, and politically nought but bitterness; those who desire more populous white communities for the purpose of trade and education; and of those who regard the slave as their rival in production. This combination of opinion against slavery has prodigiously increased within a few years, and is now increasing among us at a rapid pace. Numbers are every day added to those who long for the exodus of the slave; and unless we adopt, as a conservative measure, the plan here proposed, the time will come when we will see our capital in this species of property prostrated at a blow."

selves of slavery, and thus preparing to pass over to the enemy's camp; it was confessed that, in the very citadel of slavery, a rebellious spirit was active, and that slaveholders were to be found among the discontented, and were in part even the chief instigators of the movement; and yet there was to be no power that could help this "peculiar institution," whose own priests were beginning to denounce it, from the virgin soil of the territories, not though the inhabitants of the territories themselves should with one accord pronounce it a pest. If the population of the north had eyes to see and ears to hear, and was capable of understanding what it saw and heard, and should, nevertheless, give its assent to this doctrine, it would be offering to the world the strange spectacle of a people which acknowledges, that, of its own free will, it has bound itself to work for its own harm and destruction, and then, with heroic folly, lives up to this mad resolution with inviolate faith.

In the south, the number of those was increasing, who had come to a perception that, at least for the time being, and in this particular instance, the north could not be brought to this. On the 22d of January, 1849, Toombs announced to Crittenden that almost all the southern Whigs were ready to allow California to be organized as a state at once, inasmuch as it could never be won for slavery and the south had only its honor to guard.[1] And

[1] "We shall then attempt to erect all California and that portion of New Mexico lying west of the Sierra into a state as soon as she forms a constitution and asks it, which we think the present state of anxiety there will soon drive her to do. * * * I think we can carry this, or something like it. The principle I act upon is this: it cannot be a slave country! We have only the point of honor to serve, and this will serve it and rescue that country from all danger of agitation. The southern Whigs are now nearly unanimous in favor of it, and will be wholly so before the vote is taken." Coleman, The Life of J. J. Crittenden, I., p. 335.

even the more extreme advisers of the south, who, after as before, demanded the maintenance of the principle to the uttermost, admitted that the territories acquired from Mexico were irrevocably lost to slavery.[1]

The leading men of the south were far too practical politicians, merely for the sake of an "abstract right," to present the north with a serious categorical alternative; although in all questions they fought for their real or fancied rights with all the tenacity of the Anglo-Saxon and all the fire of the southerner, and had, in general, more or less convinced themselves that they were fighting only for their rights. The contest for the principle was, at the same time, a contest for the future. Even before it could be fully seen how poor service Polk had rendered the south by the Mexican war, plans had begun to be formed therefor. It was now to be expected that such plans would assume more definite shape and be pursued with more persistent energy. The object now was not merely to recover the balance of power, which the south was on the the point of losing, but it was necessary to reänimate the lukewarm and cause the dissatisfied to forget their cool reflection and calculation—"to fire the southern heart," as they were wont to call it. The defeats and threatened desertion in their own camp was an incomparably sharper spur to the radicals to proceed with reckless impetuosity, than even the most brilliant successes had ever been. This policy was yet to procure the slavocracy some surprising triumphs, but the approach of the catastrophe was only hastened thereby.

[1] The *Mobile Tribune* writes: "The new territories are beyond our reach. No action can save them from being free states. It may, however, be worth considerable trouble to vindicate our abstract right to a participation in them; and, if need be, to protect that right by extreme measures. But the victory will be barren, as far as the present is concerned." Niles Reg., LXXV., p. 75. Jan. 31, 1849.

During the time which elapsed between the conclusion of the treaty of Guadeloupe Hidalgo and the exchange of the ratifications, the question whether possession should be taken of Yucatan stirred up much dust in the Senate. So crude and fantastic was the project, that it scarcely seems necessary to go into the details of its history here. A few general remarks must be made, however, with reference to later plans and undertakings.

A message of the President, of the 29th of April, 1848,[1] informed Congress, that the commissioner and the governor of Yucatan had asked for help against the rebellious Indians and had declared themselves ready to transfer to the United States the "dominion and sovereignty" of the peninsula. Yucatan had for some years had a very checkered lot. It had repeatedly broken away from Mexico, and always united with her again, but its connection with the federal government had always been looser than that of the other states. During the war with the Union, also, the peninsula had attempted to play the double rôle of an independent state, and of a member of the Mexican republic, and the United States had not opposed it therein. They had not formally recognized Yucatan as an independent republic, but they had allowed it a neutrality, which it soon broke, thereby causing the occupation of a portion of its territory. From these facts was deduced in part a justification for authorizing the President, as was done by a bill introduced on the 4th of May by the Committee on Foreign Affairs, to occupy the peninsula temporarily at the request of Yucatan, while, on the other side, it was maintained that the step could not be justified with regard to Mexico, or, at least, might easily lead to further complications with that power.

[1] Statesm.'s Man., III., pp. 1708, 1709.

The message in the first place had expressly called attention to the duties of humanity by the remark that the Indians were carrying on a fearful war of extermination against the whites, and in the debates, also, the supporters of the bill sought to represent this element as their essential motive. This appeal to humanity and to race sympathy, however, left their opponents wholly cold, because, as Davis, of Massachusetts, pointed out, the whites, according to the official dispatches of the American naval commanders, were a thoroughly degenerate race, while the Indians much more numerous, and politically justifiable, could not by any means be properly designated as barbarians, and had had most serious grounds for complaint.[1] There could, moreover, be no doubt that the President, although the message did not say so expressly, laid much more stress on the fact that Spain and England had simultaneously been asked for aid, and might easily establish themselves in the permanent possession of the peninsula, if the United States should dismiss the petition with a refusal. This, however, Polk declared could not be suffered consistently with the Monroe doctrine, from which it was less possible to recede in this case than in any other, on account of the geographical position of Yucatan. Thus, the only question to be seriously considered in the entire debate was the importance of the peninsula for the control of the Gulf of Mexico, and as a foothold for securing the influence which the United States would have to acquire in Central America in view of the future canal joining the two oceans. Those who were much concerned in the passage of the bill expected that the provisional occupation would lead to annexation, and some of them, even, made no secret of this. Representatives of the western thirst

[1] Congr. Globe, 30th Congr., 1st Sess., Append., p. 621

for aggrandizement, like Cass, and southern Hotspurs, like Foote, went hand in hand in this as in all previous similar questions. But after the experiences that they had just been going through with, in territorial acquisition, there was no considerable party that was ready precipitately to pronounce with enthusiasm in favor of the idea of the annexation of this unexplored, harborless, and mostly unfertile region. When, on the 17th of May, Hannegan announced that, according to reliable information, a reconciliation had been brought about between the two parties of the peninsula, the Senators, with few exceptions, were honestly glad to be able to lay the whole matter *ad acta*.

Quite different were the feelings and thoughts of the southern Senators with regard to Cuba, to which frequent reference had been made in the course of these debates. Foote had distinctly proposed to use what seemed to him a specially favorable opportunity to request Spain to sell the island.[1] This did not pass unnoticed in the north, and in the succeeding months it was thought there were many indications justifying the conclusion that Polk, not only shared the views of the Senator from Mississippi, but had already complied with his suggestion. On the 18th of December, therefore, at the beginning of the new session, Miller moved to request the President to inform the Senate whether, and what kind of, negotiations had taken place with Spain with regard to the purchase of Cuba. When the resolution came up for consideration, on the 5th of January, 1849, Rusk maintained that the suspicion rested only on some vague rumors, and was without question wholly unfounded. Foote, on the other hand, asked the mover whether he intended to oppose the

[1] Congr. Globe, 30th Congr., 1st Sess., Append., p. 602.

purchase, in case the report should prove true. On Miller's answering this question in the affirmative, Foote rejoined that in that case he, Miller, would soon find himself in a very awkward position, inasmuch as Taylor had pronounced decidedly for the annexation. The Senate, however, laid the resolution on the table by a vote of 23 to 19.

The refusal to ask for information on this important matter was in itself an answer, and the correct one. On the 17th of June, 1848, Buchanan had charged Saunders in the name of the President to introduce the matter confidentially to the Spanish government, and had authorized him to go as high in his offers as $100,000,000.[1] The Secretary of State not only gave the assurance that Cuba was ready to throw itself into the arms of the United States, but he also maintained that the question could never be a "local" one in the United States, for "human foresight could not anticipate the beneficial consequences which would result to every portion of our Union," and that the acquisition of the island would strengthen the Union in a high degree.

It will be recollected that at one time the warmest patriots and the most sharp-sighted statesmen of the Union had shared these views.[2] But how greatly had the aspect of affairs been altered since then by the development of the slavery question. Assuredly neither Polk nor Buchanan was determined solely by the wish to strengthen and support the tottering power of the slave-

[1] Exec. Doc., 32d Congr., 1st Sess., Vol. XII., No. 121, pp. 43 ff.

[2] John Quincy Adams, as Secretary of State, wrote to Nelson, the U. S. Ambassador at Madrid, April 28, 1823: "It is scarcely possible to resist the conviction that the annexation of Cuba to our federal republic will be indispensable to the continuance and integrity of the Union." Ibid., p. 7.

holders, but it was equally certain that in pursuing the plan this motive would come into more and more essential prominence. And even were this not the case, the annexation of Cuba would, as a matter of fact, be chiefly beneficial to them. In the north, therefore, the project would be sure to meet with violent opposition, even in circles where the brilliant prize looked most dazzlingly tempting. As long as the island remained unendangered in the possession of so weak a power as Spain, it could not be expected with any certainty that the north, irrespective of the slavery question, could on mature deliberation be won over to the project. Any one who had thoughtfully followed the development of the planter states would have been obliged to recognize, also, that the natural riches of Cuba and the importance of its position for trade and for the control of the surrounding waters, however highly estimated, would be more than counterbalanced by the disadvantages which would result to the Union from the fact that it was a tropical island with a Spanish and colored population.

Whatever Buchanan might write, he and Polk were far too shrewd not to perceive all this themselves, and they deduced from it the correct conclusion, that their prospects of success would be the better the more they succeeded in wrapping the affair in mystery and bringing it to a speedy provisional conclusion, that is, the more completely the people could be taken unawares and defeated. Spain, however, indignantly rejected the offer. This was not unexpected by Buchanan, for he had instructed Saunders to negotiate only by word of mouth, since "a written offer might produce an absolute refusal in writing, which would embarrass us hereafter in the acquisition of the island." This was shrewd foresight, but, as we have seen, it did not prevent the affair from becoming rumored. The south

did not allow itself to be discouraged by the refusal nor by the fact that the annoying discussion had now begun, before it could even be said when negotiations could be undertaken. It saw clearly, that, even in the most favorable event, the struggle would require the utmost exertion of all its powers, and it was, therefore, the more firmly resolved to maintain its "right" to the territories, even though this right should remain a mere "abstraction" in the case of California and New Mexico; for if it should now meet with an undisguisable and decisive defeat on the question of principle, its opponents would be put in possession of a weapon which would make it impossible to think of carrying through the acquisition of Cuba against their resistance. If the slavocracy, however, should receive no portion of the territories acquired from Mexico, the possession of Cuba would become no longer merely desirable but an absolute necessity for it.

As yet, nevertheless, the great majority of the southern representatives had by no means abandoned the hope of attaining something more, even with regard to California and New Mexico, than the mere prevention of a formal recognition of the right of the federal legislature to exclude slavery from the territories. They and their northern associates were inexhaustible in the originating of devices which were to secure the south an actual advantage without deciding the question of law and right.

The close of the session was drawing very near, and the Senate had not yet seriously attacked the territorial question, for a new attempt of Douglas to exempt California from the apprenticeship of the territorial condition had been hopeless from the first. Not till the 20th of February, 1849, was the consideration of the subject fairly begun by an amendment to the general appropriation bill, introduced by Walker on the day before, which extended

to the newly acquired territory lying west of the Rio Grande all the federal laws, enumerated by classes, which, directly or indirectly, concerned the financial interests of the Union, and empowered the President to make all necessary arrangements and dispositions for the carrying out of this provision. Apart from the determination of the boundary, which prejudged the contest between Texas and New Mexico, this looked at first sufficiently innocent. Only it had nothing to do with the budget, and Atherton, therefore, raised a point of order. The Vice-President, however, decided in favor of Walker, who then, before the debate on his motion had begun, made additions to it which essentially altered its character. It soon appeared that he had been induced to make these modifications by Westcott and Foote, which was enough in itself to awaken suspicion of a new move in favor of the slavocracy. The amendment now began by "extending" the constitution of the United States to the territory, and gave the President authority "to prescribe and establish all proper and useful regulations in conformity with the constitution of the United States," and to alter the same according to circumstances in his discretion, in order to carry out the provisions of this law, and uphold peace, order, and law in the territories.[1]

The amendment, in this modified form, gave rise to an interesting and important constitutional debate. Webster objected to it, not only that it gave the President unlimited authority over the district, but he also maintained that it was impossible to extend the constitution in so general a way to a territory.[2] The constitution was valid solely

[1] See the language of the amendment in its two forms. Deb. of Congr., XVI., pp. 306, 307.

[2] "Why, sir, the thing is utterly impossible. All the legislation in the world, in this general form, could not accomplish it."

for the original and subsequently-admitted states. It was, indeed, the (moral) duty of Congress, in its legislation for the territories, to preserve the principles of the constitution,[1] but it was not absolutely necessary.[2] The territories were not a part but a possession of the United States. Calhoun, on the contrary, maintained that the constitution, which called itself the supreme law of the land,[3] extends *proprio vigore* and *eo ipso* also to the territories, even though its provisions were not all applicable there. If the constitution did not extend to the territories, whence did Congress, which existed only by virtue of the constitution, derive any authority whatsoever over the territories?

Calhoun was evidently right, although Webster had good grounds for astonishment that the radical upholder of states rights should support this view. The United States have, outside of the constitution, no legal existence. The relation of the Union to the territories is, therefore, a legal relation in and under the constitution, which is wholly independent of the legislation of Congress, of which it in fact is the basis. The fact that the legislative action of Congress is required in order to make this legal relation effective, is by no means, as Webster seemed to think, in contradiction with this assertion; for, as Calhoun

[1] "I do not say that, while we sit here to make laws for these territories, we are not bound by every one of those great principles which are intended as general securities for public liberty. But they do not exist in territories till introduced by the authority of Congress."

[2] "In approving that constitution [which a territory has drawn up for itself], the legislation of Congress was not necessarily confined to those principles that bind it when it is exercised in passing laws for the United States itself." The debate between Webster and Calhoun may be read in full not only in the Congr. Globe and in the Deb. of Congr., but also in Curtis' Life of Daniel Webster, II., pp. 361-372.

[3] Webster asked: "What land?" To which Calhoun replied: "The land; the territories of the United States are a part of the land."

rightly said, the legislative action of Congress is equally necessary in order to put in operation the provisions of the constitution relating to the states. Unquestionably there is an essential difference between the nature of the legal relation of the states to the Union and that of the territories. The distinction, following Webster's line of thought, is sharply indicated by Cooley's saying: "The constitution was made for the states, not for territories."[1] Yet the proposition must not be interpreted too literally. The United States had a territorial domain even under the articles of confederation. This the constitution could not possibly overlook, and it has accordingly, in express words, assigned to the territories their place in the organism of the Union; to this extent, therefore, it was made for the territories. Thus, though the territories are possessions of the United States, we shall be obliged to concur unconditionally with the Supreme Court which, in contradiction to Webster in a later decision, repeatedly designates them also as a "part" of the United States. And equally incontestable is its further declaration, that the powers of the federal government with regard to the persons and property of the citizens of the territories, cannot be other or greater than those granted it over the citizens of the states.[2] Calhoun himself had asked whether Congress

[1] The General Principles of Constitutional Law in the United States of America, p. 36.

[2] "The power of Congress over the person or property of a citizen can never be a mere discretionary power. The powers of the government, and the rights and privileges of the citizen, are regulated and plainly defined by the constitution itself. When a territory becomes a part of the United States, the Federal Government enters into possession in the character impressed upon it by those who created it. It enters upon it with its powers over the citizens strictly defined and limited by the constitution, from which it derives its own existence, and by virtue of which alone it continues to exist and act as a government and sovereignty. It has no power of any kind beyond it, and it

could create a nobility or an established church in the territories. If from this he drew the conclusion that the positive provisions of the constitution, as well as the negative, must hold good for the territories, his proposition, thus generally stated, was evidently not true. This he himself recognized by admitting that the provisions of the constitution were not all applicable to the territories. Apart, then, from the theoretic question, the contest between him and Webster was reduced to the single question, what provisions of the constitution were applicable to the territories? Webster was, very properly, unwilling, both on political and legal grounds, to leave the decision of this question to the discretion of the President. But, because this was not permissible, it was not necessary to declare that the question did not admit of any decision at all. It is perfectly evident that the question was partly political, partly legal, and, accordingly, its definite decision belonged partly to the courts, and partly to Congress. And this was the sole reason why Webster attacked with such emphasis the proposition of Walker's amendment, which, at the first glance, appeared so meaningless in its generality, and that Calhoun had taken up the contest in place of the insignificant senator from Wisconsin.

Calhoun greeted Webster's assertion with joy, because it had narrowed to the decisive point the limits of the

cannot, when it enters a territory of the United States, put off its character and assume discretionary or despotic powers, which the constitution has denied to it. It cannot create for itself a new character separate from the citizens of the United States, and the duties it owes them under the provisions of the constitution. The territory being a part of the United States, the government and the citizens both enter it under the authority of the constitution, with their respective rights defined and marked out, and the government can exercise no power over the person or property beyond what that instrument confers." Dred Scott v. Sandford, Howard's Rep., XIX., p. 449.

broad battlefield of the contest between the north and south on the territorial question. Should he, Calhoun, have succeeded in proving his proposition, then, he thought, it would be impossible any longer to contest the right of the south to enter the territories with its slaves, since the territories belonged to the "Thirty States." Thus, he simply returned to his old position, demonstrating it, however, as little now as before. Here, then, was the real object of the attempt to "extend" the constitution to the territories by law[1] and because this was the object, the opponents of the extension of slavery resisted the motion. Calhoun had, therefore, no right to conclude from this that, in their opinion, too, slavery entered into all the territories "under the shield of the constitution." Their opposition was more than sufficiently explained and justified by their unwillingness to leave to the President's good discretion the interpretation of the constitution in this way or that. The constitution settled nothing with regard to slavery in the territories, and according to the nature of the question, according to the constitution[2] and according to the course —not always, it is true—hitherto adopted, it was the right

[1] Clingman afterwards said in the House; "the amendment from the Senate, known as Walker's which would have settled the question of slavery in the territories." Congr. Globe, 31st Congr., 1st Sess., p. 205.

[2] Chief Justice Marshall says in the case of Serè v. Pitot: "Accordingly, we find Congress possessing and exercising the absolute and undisputed power of governing and legislating for the territory of Orleans." Cranch's Rep., VI., p. 337; Curtis, II., p. 425. The power of Congress to make laws regarding slavery in the territories is directly or indirectly recognized in the following judicial decisions: Menard v. Aspasia, Peters' Rep., V., p. 505; Phebe et al. v. Jay, Breese's Rep., p. 210; Hogg v. The Zanesville Canal Co., Ohio Rep., V., p. 410; Martin's Louisiana Rep., N. S., p. 699; Spooner v. McConnell, McLean's Rep., I., p. 341; Harvey v. Decker, Walker's Mississippi Rep., p. 36; Rachael v. Walker, Missouri Rep., IV., p. 350.

and duty of Congress to dictate the law to them on this point. The territories were not colonies which were destined permanently to maintain a separate existence under the Union, but they were embryo states with the legal expectancy of becoming equal constituent members of the Union. The character of their political and social organization was, therefore, an essential determining factor in the future of the Union. To leave it to them to form this organization wholly according to their own good pleasure, would be *pro tanto*, to renounce all effort to give the development of the Union a particular direction, and to secure its preservation. The number of the states had already more than doubled. If this principle, therefore, had been allowed from the beginning, the homogeneity in the ground-type of the thirteen original states might have been so overgrown with a confusion of heterogenous institutions, that, even at that time, there would have been no possibility of a rational, union, policy, guided by the *raison d' état* and conscious of its aim—and, therefore, none of the continuance of the Union itself. A state that consciously and voluntarily deprives itself of the possibility of exercising the right of determining itself the course of its own development, is a monstrosity—a contradiction in terms. Nor would the case be altered if that principle was expressed distinctly and in the most unequivocal manner in the constitution, for from the start the actual course of development would either have to override it or be a process of disintegration of the state. Calhoun's assertion that the territories belonged to the "thirty states," and that, therefore, the citizens of every state could take with them into the territories the rights which rested solely upon the municipal institutions of their respective states, and the doctrine of squatter sovereignty, therefore, were equally absurd, if the Union was acknowledged to be a nation in any sense of the term

and not a mere international league. But, whatever its original legal character might have been, all the dialectics in the world could not argue away the fact that it never really had been such a mere league, and, therefore, also the founders of the republic had never been guilty of the monstrous absurdities imputed to them both by the Calhoun and the Cass-Dickinson schools. As soon as the Union had come into possession of a territorial domain it had, both generally, and specially with reference to the slavery question, adopted a territorial policy with a distinct, conscious object. The ordinance of 1787 was the best and most significant proof, how fully Congress shared the conviction of the Philadelphia convention, that "a more perfect union" was to take the place of the loose confederation; and the first Congress under the new constitution declared, by a confirmation of the ordinance, that the measure in its opinion was conceived thoroughly in the spirit of the more perfect union. Since that time, Congress had always regarded and treated the territorial condition not merely as a time of waiting in which the territory had to acquire the requisite material weight, but also as a preliminary school, in which it had to secure a political and social development in harmony with the general character of the states, such that its entrance into the Union as an equal constituent member would be for the weal of the whole, as well as for its own advantage. And the Calhounites, apart from the slavery question, not only wished to maintain this practice, but they urged the necessity of this course as an irresistible argument against those supporters of squatter sovereignty who favored the immediate admission of California as a state. Calhoun and the entire south, moreover, in season and out of season, were continually speaking of the rapidity with which the Union had become more perfect in fact, since the adoption

of the constitution, that is to say, had consolidated from a confederation into a federal state with a national character. At this very time, Calhoun was vigorously opposing the establishment of a Department of the Interior, and rightly said that the very name of the new department was a most eloquent testimonial to the progressive development of the character of the Union in the direction indicated.[1] But even the Congress of the confederation and the first Congress under the new constitution had regarded slavery as a question of sufficient national significance, to make it necessary that the Union should follow a definite territorial policy with reference thereto. And yet, now according to some, law, and according to others, policy, unconditionally required that the federal legislature should absolutely ignore the question—now after the bitter experience of two generations had shown that it influenced the fate of the Union to an extent and degree of which the founders of the republic could have formed no conception.

Some of the most decided champions of the slave holding interest, against their will gave the most emphatic testimony to the impossibility of complying with this request. Hunter and Westcott expressed a wish that the decision might be postponed, even if a favorable issue for the south could now be obtained; for, in view of the excited state of public opinion, it was to be feared that the north would not peacefully submit to such a result.[2] This

[1] Deb. of Congr., XVI., p. 338.

[2] Westcott said: "We are just over a closely contested Presidential election, and in which this question was a prominent and exciting topic of discussion. Give time and opportunity for all to cool. If it is to come, at least put the evil day afar off. Avoid it. Shun it. Postpone it. Give time for reason and patriotism to resume their sway. * * * Sir, I do not hesitate, as a southern Senator, to say here in my place, that I regard the postponement of the decision of this slavery question at this session, as much more propitious to the perpetuity of

was an avowal pregnant with meaning. How many Senators concurred in this view of the temper of the north can not be said, but a considerable portion of them shared the opinion that it would be prudent to postpone the decision once more. Their wishes were to be fulfilled.

Dayton had moved that, until Congress provided for the territories in some other way, "all the military, civil, and judicial, powers heretofore exercised by the officers of the Mexican government," should be transferred to persons to be selected by the President. Berrien declared himself ready to support the motion if the addition would be accepted "so far as they [the powers] are not inconsistent with the constitution of the United States." Dayton would not assent to this, because the south would have drawn from it the same conclusions as from the "extension of the constitution of the United States" to the territories. But without the additional clause, the motion could not be accepted by the south, since it left the prohibition of slavery in force for an indefinite time. Dayton's pointing out that he had copied verbatim the law once promulgated for Florida, and his assurance that his

the Union than its decision in any way could be at this session, if such decision could be made. I advocate this amendment (Walker's) distinctly on that ground. A decision by Congress, even if in favor of the south, at this session, I have apprehension would not be peaceably acquiesced in, in the present state of excited feeling on this subject in the other sections. The public mind is, I fear, diseased with respect to it. Such decision now would be used by fanatics and demagogues, who are the enemies of the south, to carry out their unpatriotic, if not treasonable, designs. They would by such decision at this time, I fear, be able to excite prejudice, and mislead the people, and the ball might rebound. It would not be a settlement of the question, but would occasion renewed and more violent agitation." Ibid., pp. 328, 329. He added that the south would naturally resist an unfavorable decision, and that its resistance would be unbending, while the north would again gradually lose its hostile disposition towards the south.

only object was to provide the territories with the necessary machinery of government, of course, did not win him a vote. A motion of Webster to leave the existing laws in force until the close of the next session of Congress, unless the territories should be organized sooner, met, as will be readily understood, with still less favor. Webster might understand this as the *laisser aller*, which he declared the best policy,[1] but in the eyes of the south it was tantamount to an unfavorable decision for the time indicated. On the 26th of February, Dayton's motion was rejected by a vote of 47 to 8, and then Walker's amendment, after it had been given a somewhat altered form by Berrien, was passed by a vote of 29 to 27.

On the following day the House by a vote of 126 to 87 passed its territorial bill excluding slavery from the new territories. The Senate referred the bill to its Committee on the Territories and nothing more was heard of it. The House could not without any further attention lay the Senate's proposition *ad acta* in this polite fashion, because it was appended to the appropriation bill. On the 2d of March, the Committee on Ways and Means introduced an amendment, which, in essentials, agreed with Webster's motion. It received only 17 votes, but the Walker amendment was also rejected by a vote of 114 to 100.[2] A committee of conference of the two Houses reported next day that it had been unable to unite upon any plan. It was the last day of the 30th Congress. If both Houses remained firm, not only would the territories be

[1] Curtis, Life of D. Webster, II., p. 362.

[2] Clingman relates, that a prominent representative of Massachusetts told him: "If we do not succeed in changing it [the Walker amendment] we shall prevent its adoption by having the yeas and nays on motions to adjourn, and calls of the House till the end of the session." Congr. Globe, 31st Congr., 1st Sess., p. 205.

left without legal organization, but the new administration would stand before an empty or locked treasury, till the new Congress could be called together and an appropriation voted. It seemed inconceivable that a majority of the Senate would venture to bring the entire civil machinery of the Union to a stand; but the mere apprehension of such a danger filled Taylor with the liveliest anxiety. Seward, who was known to be acting in concert with the President, exerted his entire influence to persuade the House to make a last effort to come to an understanding.[1] The excitement was so intense that some delegates actually came to blows,[2] but the majority were won over by Seward to the Webster motion. In the Senate, however, the conflict continued with undiminished violence, and the prospect of reaching any decision grew hourly less. That body feared to maintain its position with obstinacy, and the acceptance of the amendment of the House was, for the majority, out of the question, but they wrangled with each other and were unable to devise any plan for which a majority could be won, nor did time allow of their sending the bill back to the House. Hunter preferred to let the appropriation bill fall through rather than to abandon any of the rights of the south to California; Douglas declared that he would sooner give up the appropriation bill than leave California without a government; Foote, Cass, and Borland refused to take any further part in the voting, on the ground that the Senate of the United States

[1] See his letter of the 29th of March, 1849, to the editor of the *National Intelligencer*. Works, III., pp., 443, 444.

[2] Horace Mann writes on the 4th of March: "There were two regular fist-fights in the House, in one of which blood flowed freely; and one in the Senate. Some of the members were fiercely exasperated; and had the north been as ferocious as the south, or the Whigs as violent as the Democrats, it is probable there would have been a general mêlée." Life of H. Mann, p. 277.

was no longer sitting, but that they were merely a debating club of private gentlemen, inasmuch as the hour of midnight between the 3d and 4th of March, which put an end to the 30th Congress, was long past. It was almost four o'clock in the morning when Webster finally succeeded in obtaining a vote on the motion to drop the Walker amendment. The resolution was adopted by a vote of 38 to 7, and the appropriation bill had thus been passed by both Houses without containing any provision about the new territories. Polk signed the bill without considering very minutely whether he was justified in so doing, and although in all probability the great majority of the people were of the opinion that he had really ceased to be President of the United States on the last minute of the 3d of March, his action was naturally everywhere approved.

Thus the machinery of state remained undisturbed in its regular movement, but not a step in advance had been taken in the territorial question. The history of the contest shows, nevertheless, that notwithstanding this, the session can by no means be designated resultless. The slavocracy had tried to compass its aim by new, roundabout, and hidden ways, it had strained the bow to the point of breaking, but had been repelled, while at other points its opponents had passed over to the aggressive, without any practical results it is true, but not without significant moral gains. And when, at the close of the year, the contest should be resumed in Congress, they would have in the Senate, hitherto the impregnable bulwark of the slavocracy, two champions from whose strength and resolution they justly awaited the greatest results.

The clouds hung threatening over the whole Union, but highest and darkest they loomed above the south.

CHAPTER XV.

THE FIRST SESSION OF THE 31ST CONGRESS TO THE APPOINTMENT OF THE COMMITTEE OF THIRTEEN, APRIL 19, 1850.

The 4th of March fell on a Sunday and Taylor's inauguration took place, therefore, on the 5th. The address, which he read from the eastern steps of the capitol, was marked by brevity, simplicity and emptiness. It announced good intentions but no policy. The only significant sentence was the assurance that he would zealously support all measures of Congress adopted to bring into harmony opposing interests and to secure the perpetuity of the Union.

The cabinet as a whole was almost as colorless as the inaugural address, although almost all its members belonged to the best known politicians. Although 97 of Taylor's 163 electoral votes had been given by the free states, the south had been considered in four ministries, the north in only three. The Secretary of War, Crawford, of Georgia, was, nevertheless, the only representative of the more extreme southern views and he had not much influence, partly because he was a man of only mediocre capacity, and partly because he was suspected of having too easy a conscience in pecuniary matters. The Attorney General, Reverdy Johnson, had, it is true, as we have seen, supported the view, that the maintenance of the Union would be impossible if slavery should be excluded from the entire territorial domain; but the constitutional

right of Congress to do this he had pronounced incontestable. Preston, the Secretary of the Navy, had, in 1832, in the legislature of Virginia, recommended the gradual abolition of slavery, and, although he had afterwards been swept along with the stream, it was, nevertheless, doubtful how far the slavocracy would be able to count upon him if their interests should clash with his other political aims. Ewing, of Ohio, the Secretary of the Interior, was a Virginian by birth, and, although he had worked his way up from the lower ranks, he was both as man and politician a conservative with a pronounced aristocratic tendency. Meredith, of Pennsylvania, the Secretary of the Treasury, was an excellent jurist and an esteemed man, but had little political weight. The only decided representative of the Free Soil principle in the cabinet was the Postmaster General, Collamer, of Vermont. If it was allowable to strike an average, so to speak, it might, therefore, be expected that the Secretary of State, John M. Clayton, who in the first session of the 30th Congress had attempted to quiet the conflict on the territorial question by the compromise plan named after him, would represent with tolerable accuracy the position of the cabinet on the slavery question.

The composition of the cabinet did not satisfy the Whigs, although they had no definite serious objections to make to its individual members. People shook their heads in astonishment, and avowed to each other in confidence, that, after all, it was a serious matter to place at the head of the state a man who, on his own testimony, had yet to learn the first elements of statesmanship. The manner in which the administration proceeded to fill the other federal offices strengthened this first impression. Clay, from the beginning, had not expected to "find much favor at court," and had given the assurance that he should not be over-

much grieved, but he had at the same time added: "The President will be unwise if he neglects or proscribes my friends."[1] And now not alone Clay's friends complained, but Taylor was charged with dividing the loaves and fishes exclusively among those who had supported his candidacy from the start. Even the poison of sectional jealousy was introduced into this wrangling for the spoils. The leaders of the southern Whigs maintained that Seward, who was generally regarded as the determining power behind the throne, had been made general manager of the patronage for the north. They held Preston responsible for this, who, they said, conceived the "foolish idea," that in this way the presidential candidate of the party, in 1852, also could be secured to the south, because Seward was the designated candidate for 1856. The only result of this, however, had been that they thought that Seward had forced the entire northern wing of the Whigs to pass over into the camp of the extreme opponents of slavery[2]

The dissatisfaction at this trafficking with the spoils became so great that, as early as June, there was talk of giving it expression by a public demonstration.[3] And both the administration and the party were far from being so firmly established that they could afford to reënact the tragic comedy of a family quarrel, enacted in Tyler's presidency. When the autumn elections in Ohio and Penn-

[1] Mr. Clay to James Harlan, March 13, 1849. Clay's Priv. Corresp., p. 586.

[2] R. Toombs to J. J. Crittenden, April 25, 1850. Coleman, Life of J. J. Crittenden, pp. 364, 365.

[3] "I regret extremely that many of the appointments of the President are so unsatisfactory to the public; and still more that there should be just occasion for it. * * * You tell me that it will be difficult to repress an expression of the Whig dissatisfaction, prior to the meeting of Congress. I should be very sorry if this was done so early, if it should become necessary [I hope it may not] to do it at all." Mr. Clay to N. Dean, June 21, 1850. Clay's Priv. Corresp., p. 587.

sylvania went against the administration, Clay, early as it was, expressed his fear that the helm might be wrested from their hands;[1] and the day after the assembling of Congress he wrote to his son James that it was all over with the supremacy of the Whigs, unless some favorable revolution should take place in public affairs.[2]

This state of affairs opened a gloomy prospect for the future, not only to the Whigs, but to the entire country. In spite of the proud confidence with which the southern friends of Taylor had proclaimed, during the election contest, that the south needed no guaranties from any of her sons for the soundness of his views on the slavery question, his opponents assumed a much sharper tone in their complaints and menaces as soon as the decision was reached.[3] The Legislature of Missouri declared the binding force of the Missouri compromise—if it ever had any—wholly destroyed by the conduct of the north, and promised to unite heartily with the other slave states in resistance to any measure that sought to curtail the equal rights of the south to the territories.[4] The Legislature of

[1] "Judging from present prospects I do not see how it is to be sustained." October 15, to his son James. Ibid., pp. 589, 590.

[2] l. c.

[3] Ashmun, the only Massachusetts representative in Congress who stood by Webster after the 7th of March speech, said, in the House of Representatives, March 27: "We heard no talk of disunion until General Taylor was elected, and then the howl began. Then it was that the union was declared to be suddenly in danger, because southern rights had been trodden down." Congr. Globe, 31st Congr., 1st Sess., App., p. 398.

[4] They expressed their readiness as a concession, to accept the extension of the Missouri line, if this would prevent further attacks and put a stop to the anti-slavery fanaticism. See the resolutions. Congr. Globe, 31st Congr., 1st Sess., pp. 97, 98. Benton had the courage, appealing to the people of the state who did not approve of the proceeding of the Legislature, to refuse obedience to the instruction to act in accordance with the resolutions. See his letter of May 9, 1849, To the People of Missouri, Niles' Reg., LXXV., p. 322.

Virginia requested the Governor to call an extraordinary session, in case Congress should accept the Wilmot proviso, and the Governors of Georgia and Alabama recommended that measures be taken to call a convention in that event. The Committee of safety of South Carolina held a meeting of delegates in Columbia, which appointed a General Committee of Safety of five members to organize the agitation and to bring about a union of the entire south.[1] The word "disunion" fell so glibly from the lips of the Hotspurs now, that it gradually began to lose much of its dreadful sound even in the ears of the masses. The aged Troup, whose years had neither cooled his heated blood nor subdued his defiant spirit, solemnly warned them to prepare themselves in earnest, as the knot would sooner or later have to be hewn through with the the sword, and every hour lost was so much gained for the north.[2]

[1] Niles' Reg., LXXV., pp. 328, 329.

[2] "It is worse than useless to conceal anything from ourselves—it is far better to lay bare the naked truths, and in good time. Are we to surrender because the civilized world, and, it may be, more than one-half of our countrymen are against us? This is the only question worth considering—and, I begin, by answering No! by no means. If you are divided, you can do nothing—perfect unanimity is not to be hoped for, but an approach to it might be realized; what then? I say a perfect preparedness for the last resort, by the establishment, in every state, without delay, of military schools, foundries, armories, arsenals, manufactories of powder, etc. Have you not seen that our adversaries are constantly growing stronger, and ourselves comparatively weaker, in all the elements of power—population—wealth—education—military resources of all kinds; and these sustained by a government strong in its military and naval power—ready for combat at any time, and at any place, and already the terror of the world? * * * I say, then, ceasing all bluster and bravado, prepare to meet them on the last field, in which, if you be well prepared, they will receive harder blows than they can give; and they know it. * * * It is only the dread of death that in the United States will stay the hand or stop the machinations of the fanatic. That dread you must

Taylor's oft-repeated assurance that he would always subordinate the interests of parties to those of the entire people, had been honestly meant. He desired to prove this at once in the slavery question, and, if good will had been all that was needed, he might have been able, for the very reason that he himself was a large slave owner in one of the states furthest south, to do more to effect a settlement of the difficulty than any president whatever from the north[1] could have done. But Taylor understood the real nature of the evil as little as did the great majority of the politicians, and of the population of the two sections. He mistook the symptoms for the disease, and he believed, therefore, that by shifting the formal ground on which, for the time being, the main action in the eternal conflict between freedom and slavery was being fought, all the danger would vanish, too, and it would be possible to establish a lasting peace. The territorial question was to be disposed of forever by a combination of the old propositions of Douglas and Clayton.

In the first place, the contest, as far as California was concerned, was to be deprived of all object. Thomas Butler King, of Georgia, was sent thither to induce the population to give themselves a state constitution, and then to petition for admission into the Union. His instructions of the 3d of April, 1849, inculcated with spe-

present to him, in a visible, palpable form. They know you have courage; but where is the flying artillery, the most formidable arm in modern warfare—where the munitions, the arms, the discipline—and where the science to serve them in the field?" Letter of the 15th of Sept., 1849, to a gentleman at Mobile. Harden, The Life of G. M. Troup, Append., p. XVI.

[1] Th. Parker rightly said some years later: "The higher north the president comes from, the lower south must he go to. General Taylor could afford to be more anti-slavery than Mr. Fillmore or Mr. Pierce." White, Life and Corresp. of Th. Parker, II., p. 120.

cial emphasis, that the organization of the state must in every respect be throughout the people's own work, and that the President could do no more than "protect and defend" them in it.[1]

In taking this step, Taylor met the wishes of the population of California. Independently of the slavery question, for the discussion of which no urgent reason as yet existed, there had for some time been an agitation on foot in different parts of the territory for the establishment of a firm, legal order of their own initiative.[2] The rule of the commanding officer of the federal troops, who bore the title of governor, had neither sufficient strength nor that living connection with the people, which has now become absolutely indispensable in the United States; the collection of the taxes and the expenditure of the receipts had led to wearisome and bitter wrangling with this irresponsible ruler of uncertain, amphibious character, and the coarse, criminal adventurer element was daily becoming a more fearful scourge. If thorough going relief was not speedily administered, affairs would soon assume a shape that would make the name of California like that of Sodom and Gomorrah—a by-word for all time. In these circumstances, it was really monstrous to demand that the Californians should wait year after year with stolid patience till the quarrel on the slavery question was somehow and sometime ended, in order then to receive from the hands of Congress a real government and legal status. Congress was not only guilty of a serious neglect of duty, but, in its prolonged and fruitless efforts to give a legal existence

[1] Sen. Doc., 31st Congr. 1st Congr., 1st Sess., Vol. IX., No. 78, p. 10.

[2] For details, see the memorial which was presented to Congress March 12, 1850, by the senators and representatives of California. Browne, Report of the Debates in the Convention of California. App. pp. XIV.-XXIII.

to the domain acquired from Mexico, it offered the most pitiable illustration of political impotence that can be found in the history of the United States. And the population of California, swept together from all the states of the Union, gave the most magnificent illustration of the wonderful capacity of this people for self-government, by creating for themselves, of their own motion, and with the utmost coolness and deliberation, a political organization which proved itself viable under conditions to which many an old and firmly established government would have succumbed.

A few days after the news reached San Francisco that all the debates in Congress for the organization of the territory had again failed to lead to any results, the "legislative assembly" of the district—a body of representatives without any legal authority, chosen some months before by the people—issued an address to the people, in which it called upon all the districts to choose delegates to a convention which was to assemble on the third Monday of August for the purpose of drawing up a plan for a state constitution. At the same time, but without knowing of this step, General Riley, residing at Monterey, issued (June 3d) in his capacity of governor, a proclamation calling a convention to be held at Monterey, September 1, for the same purpose.[1] San Francisco denied the Governor

[1] Riley had resolved on this step before King's arrival. In a dispatch of the officer in chief command of the fleet in the Pacific Ocean, we read: "The steamer Edith has been sent to Mazatlan for the necessary intelligence, and, on her arrival with information that no other than a revenue law had been passed, General Riley issued a proclamation for the election of the necessary executive and judicial officers under the existing laws, and recommending at the same time the election of delegates to a convention to form a state constitution. Mr. King arrived at the time these proclamations were about being issued, and it was a matter of great congratulation that the government, by anticipation, had approved of the latter measure." Congr. Globe, 31st Congr., 1st Sess., App., p. 75.

all authority in this matter, but finally allowed itself to be induced by his friends, with express reservation of the legal question, to invite the other districts, in the interests of the common weal, to obey Riley's summons. On the appointed day the delegates began to assemble at Monterey, and on the 13th of October the convention terminated its labors. On the 8th of September it had placed at the head of the bill of rights the introductory words of the declaration of independence, and on the 10th, Shannon moved to add to the report of the committee the provision: "Neither slavery nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this state." This motion was unanimously made a resolution,[1] although fifteen members of the convention had emigrated from slave states. In the debate only two questions had been discussed, in which part of the constitution this provision ought to be placed, and whether it should be laid before the people to be voted on separately. Much more animated was the discussion on the motion to prohibit the immigration of free colored men. The weightiest and most effective argument in favor of the motion was, that the first named provision would infallibly be eluded unless colored men were excluded from the state altogether. Stewart, of Maryland, informed them that he had received letters from prominent men of his native state, in which they announced their intention "to come here in the spring with a large number of negroes, to be emancipated on the condition of serving them six or twelve months in the mines."[2] Semple fully concurred in Stewart's views, and added: "At six months labor they will pay a higher price here than they can sell their

[1] Browne, Report of the Debates in the convention of California, pp. 33, 34, 43, 44.

[2] Report of the Debates in the Convention of California, p. 146.

slaves for in Maryland. * * * I have my eye, sir, on a certain gentleman in Louisiana, and I will risk it that if you allow him to come here and dig gold with his slaves, he will set free within your borders at least a thousand. * * * There are many others similarly situated with regard to their slaves."[1] The motion was passed, and the clause prohibiting slavery was not subjected to a special vote. On the 13th of November the population accepted the constitution by a vote of 12,066 against only 811, and on the 15th of December the legislature met at San José. Five days later Riley formally placed the government in the hands of the new civil authorities.

Since Taylor's only object had been to withdraw from Congress by means of a *fait accompli* the decision what the law was, or rather should be, regarding slavery in California, he was satisfied with the results of his policy and thought that he could now proceed to employ the same methods in New Mexico also.[2] The south looked at the matter in another light. Whatever might be the rights of the case, it was facts that would have to decide and Calhoun's prophecy had received a confirmation which was felt by the slavocracy like the blow of a club. That the decision had gone against them was a defeat that could not be made good unless their vague hopes of the acquisition of further territory in Mexico or Central America, or

[1] Ibid., p. 148.

[2] The Secretary of War, Crawford, writes Nov. 19, 1849, to Lieutenant Colonel McCall: "It is not believed that the people of New Mexico are required to await the movements of the federal government in relation to the plan of a government proper for the regulation of their own internal concerns. * * * Should the people of New Mexico wish to take any steps towards this object, so important and necessary to themselves, it will be your duty, and the duty of others with whom you are associated, not to thwart but advance their wishes." Sen. Doc., 31st Congr., 1st Sess., Vol. IX., No. 18, p. 264.

more particularly of Cuba, could be realized, and the prospects of this were not particularly encouraging, Taylor having with provoking conscientiousness just thwarted a filibustering expedition against the "Pearl of the Antilles."[1] But even should the south succeed in finding compensation elsewhere, it could never wipe out the moral impression of the fact that its own sons had unanimously given their verdict against the "peculiar institution." No better proof could be afforded that the civilized world was not influenced solely by "abstractions" and "feelings" in standing, as Troup admitted it did, with one accord against the south; slavery had been condemned, as irreconcilable with the laws which govern modern civilized life, by those who had been under its influences from birth, and whose sympathies, after as before, went with the south. Even in the districts south of the Missouri line, which the south even ten years later, sought to separate from California as a slave state, only 21 votes had been cast against the constitution,[2] and it is to say the least,

[1] See his proclamation of the 11th of August, 1849, Statesm.'s Man., III., p. 1846, and Sen. Doc., 31st Congr., 1st Sess., Vol. XIII, No. 57, pp. 1–18. A Colonel White was the head of the expedition, which from New Orleans was organized at Round Island. The condemnation of the ships Sea Gull and New Orleans temporarily averted the danger from Cuba, but the project was not on that account abandoned. "Certain newspapers in this quarter, I regret to say, continue to encourage them to persevere in their wild and lawless enterprise. * * * I exceedingly regret to hear such a band of would-be buccaneers eulogized as patriotic and chivalrous American citizens; and the navy, and myself in particular, denounced as having shamefully prevented so meritorious a band of heroes from participating in a contemplated great and glorious struggle for liberty and the rights of man! Such strains of rhapsody, I assure you, sir, are not uncommon in this quarter of the world." Commander V. M. Randolph to the Secretary of the Navy, Sept. 14th, 1849. Ibid., p. 99.

[2] Congr. Globe, 31st Congr., 1st Sess., p. 1199

doubtful whether even these 21 votes had been influenced by the prohibition of slavery.

It was therefore proved beyond a doubt, that, as Governor Quitman, of Mississippi, who though born and brought up in New York, was one of the most fanatical defenders of the slaveholding interest, publicly admitted a year later: it was all over with slavery unless the fostering care of government should artificially prolong its existence.[1] The President's policy in California and its results had a powerful effect in spreading the recognition of this fact among the slaveholders, and thus what was intended to confine the storm gave it free rein. But how utterly was the real state of affairs misconceived in the north when they laid chief stress on the overweening arrogance and thirst for power of the slavocracy which emboldened by previous successes had now, it was said, passed all bounds and limits. It was the consciousness of their weakness that drove them to the wildest excesses. And for this very reason, it was a further serious mistake to regard it all as idle rhodomontade.[2] In the course of years, no doubt, many a confirmation of this assertion will

[1] In his message of Nov. 18, 1850, we read: "With the prejudices of the age against it, it requires for its kind development a fostering government over it. It could scarcely subsist without such protection." Clayborne, Life and Correspondence of J. A. Quitman, II., p. 48.

[2] "Our northern friends are blind, absolutely blind, to the real dangers by which we are surrounded. They don't want to believe that there is any danger, and in general they treat the whole matter as mere bravado and as scarcely worth notice. * * * You may think that I am inclined to be gloomy, but I do most solemnly believe that disunion will ensue, and that more speedily than any man has now an idea of, if there should be a failure of amicable settlement. You cannot be surprised, then, that my whole heart and soul are engaged in the effort to bring this about." C. S. Morehead to J. J Crittenden, Washington, March 31, 1850. Coleman, The Life of J. J. Crittenden. I., pp. 363, 364.

be brought to light, but even now we know enough of the confidential correspondence of the leaders of the south to be able to establish that the threats against the Union were bitter earnest.[1] The number of those who desired the dissolution of the Union was still infinitesimal, but the number was daily increasing of those who feared that secession might become a necessity to the slaveholding interest and who were resolved upon secession if they should come to think it necessary. It is characteristic of the situation that it was Whigs of the last named group who threw themselves with such zeal into the van-guard of the slavocracy, and that the character which the struggle of the opposing principles had borne during the two last sessions of Congress underwent an immediate essential change. To escape that dreaded necessity, conservative hands brandished the torch with such wild energy that the sparks flew crackling into the dry straw, and a portion of the northern representatives lost the courage to remain true to their principles, at the risk of the flames breaking suddenly out at last.

Congress met on the 3d of December. In the Senate the Democrats had a majority and even in the House they were somewhat stronger than the Whigs, but they had not a majority of all the votes.[2] Although four of the

[1] Stephens writes from Washington as early as Dec. 5, 1849: "I find the feeling among the southern members for a dissolution of the Union—if the anti-slavery (measures) should be pressed to extremity—is becoming much more general than at first. Men are now beginning to talk of it seriously, who, twelve months ago, hardly permitted themselves to think of it." Johnston and Browne, The Life of Al. H. Stephens, p. 239.

[2] I have not been able to give in the text any numerical estimate of the strength of the parties, because the calculations that they themselves made did not agree with each other, on account of the uncertain political complexion of some of the representatives. To make the situation clear it is enough to give one of the statements: 112 Democrats, 105 Whigs, 13 Free Soilers, 1 vacancy.

Whigs were not in their seats, the weight that would turn the scale lay in the hands of the little body of Free Soilers, and they were determined to avail themselves of this in the choice of a speaker. Their demands were by no means excessive or offensive. They only required that the Committee on the District of Columbia, the Judiciary Committee, and the Committee on the Territories should be so composed, that they would not, as hitherto, simply lay *ad acta* all petitions and motions in favor of freedom, but would report on them in a respectful way. They did not believe that this could be expected of Winthrop, of Massachusetts, the speaker of the last House, who was again the candidate of the Whigs. He had for a time been regarded as a decided representative of the Free Soil principle, because he had voted for the admission of an express prohibition of slavery into the Oregon bill; but the committees appointed by him had followed the old practice, and in the course of this session he acknowledged that he had been led to vote thus by the hope that this provision would prevent the passage of the bill.[1] There was, of course, still less prospect of inducing them to vote for the opposing candidate, Howell Cobb, of Georgia, whom even some Democrats refused to support. Thus, vote after vote was taken, but no candidate received an absolute majority of all the votes. The temper of the representatives grew daily more irritated and the unprecedented proceeding began to fill the people with the utmost uneasiness. The Free Soilers had to listen to many hard words, but although it was they who hindered the organization of the House, the opposition of another little group which, it is true, made the contest easier for them, but which was unable by itself to accomplish any decisive result, was in fact, of far greater real significance.

[1] Works of Th. Parker, V., p. 123.

Toombs maintains that "the whole Whig party" was confident at the opening of the session of being able to carry through the Wilmot proviso, and he and Stephens soon came to the conviction that the south could look for no aid from Taylor. Toombs had an interview with the President, and, although the latter declared that he had not pledged himself to anything, he gave him "clearly to understand" that he should not refuse his assent to the proviso. Toombs, on the other hand, according to his own assurances, was determined to maintain the struggle against the measure even to the disruption of the Union, and he resolved to exert all his strength to force the Whigs from their purpose without regard to the possible effects of his action on the administration or the party.[1] To the far more moderate Stephens the proviso seemed in itself no sufficient ground for a break with the party. But he believed that the rumored understanding between Preston and Seward would necessarily lead to such an absorption of the Free Soil party by the Whigs that the latter would become a pronounced anti-slavery party, and to prevent this he was ready to go to all extremes with Toombs.

The Democrats were finally convinced of the impossibility of electing Cobb, and united their votes on William J. Brown, of Indiana. On the 12th of December, at the fortieth ballot the latter received 112 votes. He lacked but two of a choice, and it seemed certain that he would receive these at the next vote. At this point, Stanly, a South Carolina Whig, moved to request the Democrats to appoint a committe of three members to consult with a like committee of the Whigs on the accomplishment of

[1] See his letter of the 25th of April to Crittenden. Coleman, Life of J. J. Crittenden, I., p. 365.

the election of a speaker. Some saw in this a signal for a retreat on the part of the Whigs and an excited debate arose. The distrust of the southern representatives had been aroused by the fact that several Free Soilers had voted for Brown, and the latter was questioned as to the report that he had entered into pledges towards this factious fraction. He replied at first with a shake of the head, then, however, admitted that some negotiations had taken place, and finally, a letter from him to Wilmot was produced in which he promised in the event of his choice, to fill the aforementioned committees to the satisfaction of the Free Soil party. The southern representatives now let it be most unequivocally understood, that, by this secret promise, Brown had branded himself in their eyes as a knave from whom every man of honor must turn with indignant aversion and disdain. The House adjourned without attempting another ballot and it was more doubtful than ever when and how the election of a speaker would be brought about.

This was the right tone of feeling for the design of Toombs and Stephens. The session of the next day was introduced by a sharp encounter between Meade, of Virginia, and Duer, of New York, who called the former a "liar," because he denied that he was in favor of the dismemberment of the Union.[1] No better opportunity

[1] Meade had just before said: "Sir, let a proposition be made and supported by those who are desirous of crushing this demon of discord, for the purpose of uniting the conservatism on both sides, in opposition to any measure which shall look to the abolition of slavery in the district, or a prohibition of it in the territories. If such a proposition should be adopted, I should be willing to take a speaker from either side of the House, relying upon him to carry out the views thus expressed by a majority of this body.

"But, sir, if the organization of this House is to be followed by the passage of these bills—if these outrages are to be committed upon my people—I trust in God, sir, that my eyes have rested upon the last

could be presented for the utterance of the solemn declaration, that there were already those who did not think it a disgrace to have branded on their foreheads the so-called accursed word disunion. "I do not, then, hesitate," cried Toombs, "to avow before this House and the country, and in the presence of the living God, that if by your legislation you seek to drive us from the territories of California and New Mexico, purchased by the common blood and treasure of the whole people, and to abolish slavery in this district, thereby attempting to fix a national degradation upon half the states of this confederacy, *I am for disunion*, and if my physical courage be equal to the maintenance of my convictions of right and duty, I will devote all I am and all I have on earth to its consummation."[1] This speech had been repeatedly interrupted by storms of applause, and Stephens, too, was greeted with loud-mouthed acclamations when he announced his concurrence in every word of his colleague, and declared the Union dissolved from the moment an attack upon a section became an accomplished fact—a declaration, it is true, more emphatic than clear. Colcock, of South Carolina, then attempted to outbid the two Georgians by the announcement that he should bring in a formal motion for the dissolution of the Union, as soon as the abolition of slavery in the District of Columbia should have been resolved upon or the Wilmot proviso passed.

If Stephens, as we must suppose, was well informed, it was mainly due to the tumult started by him and Toombs that the organization of the House was finally effected, and that, too, in such a way that the south, as far as it de-

speaker of the House of Representatives." Congr. Globe, 31st Congr. 1st Sess., p. 26.

[1] Congr. Globe, 31st Congr., 1st Sess., p. 28.

pended on the speaker and the committees, could look forward with confidence to the remainder of the session.[1] It is true, we also have Stephens' authority that the thought of the unpaid boarding house bills also contributed much to making the turbulent heroes of the two camps more conciliatory,[2] and, moreover, ten full days still elapsed before a speaker was chosen. Thus the impression of the threats on the representatives of the north was far from being a panic alarm. A portion of them, it is true, recalled the old saying that discretion is the better part of valor, and it was even said that the President was now resolved, in case of necessity, to oppose his veto as an insurmountable barrier to the Wilmot proviso. On the 22d of Decem-

[1] "That point alone (Taylor's readiness to give his assent to the Wilmot proviso) would not have caused me to break with the Whig party, but I soon saw that the expectation was that Winthrop was to be elected by a coalition of the southern Whigs with the Free Soilers, and the Whig party was to be the anti-slavery party. Against that I kicked—I detested the idea. I would not act for a moment with a party that had the remotest hope of accomplishing such a result by my coöperation with them. We made up a point upon the Whigs; we got up a great row; we shook the country from one end to the other. The disorganization of the House aroused public sentiment; the feeling of the north began to give way; we soon learned that the proviso would be vetoed, if passed. * * * But the storm was then up, and it could not be calmed. The northern Whigs, feeling the great pressure from home, and fearing they would be compelled to yield their sentiments and come to a full and final settlement of the question, caved in and let Cobb be elected speaker." Stephens to his brother Linton, April 15, 1850. Waddell, Biographical Sketch of Linton Stephens, p. 100.

[2] He writes, Dec. 17, 1849: "No speaker yet. But you know the old adage: 'money makes the mare go,' and I think, from indications within the last forty-eight hours, that landladies' and landlords' bills will begin to operate in a few days. The members begin to want money terribly, and there is no getting a dollar except on credit until the House organizes. But for the root of all evil, I believe the House would probably never organize as now constituted." Johnston & Browne, The Life of Al. H. Stephens, 241.

ber, after Toombs had for some time not unsuccessfully tried the strength of his lungs against those of all other members and had thereby thrown the House into a condition of indiscribable and disgraceful confusion,[1] a motion agreed upon by the committees of both parties was passed by a vote of 113 to 106, which finally put an end to the three weeks contest. If in the next three ballots no choice should be effected, he who on the following ballot should receive the highest number of votes was to be declared the elected speaker of the House. On the following day, accordingly, Cobb was elected on the thirty-second ballot, by a plurality vote of 102, against 99 for Winthrop. Giddings points out with satisfaction that Winthrop was the first man ever defeated on account of his devotion to the slaveholding interest.[2] The affair, however, had still another side; before Congress begun its labors the slaveholding interest had won a victory which could not but exercise a decisive influence on the character of the entire session. Meade's bold, insulting saying that the south had to dictate the conditions to the north was its signature.[3]

On the 24th of December, Congress turned to the President's annual message. The three weeks over time, during which it had had to lie on Taylor's table had sufficed to make it in many essential points a document belonging to history which no longer fitted the present. It sounded almost comical after the experiences of the immediate past to hear the United States lauded as "the most stable and

[1] "We have had the worst outbreak this morning that we have ever had. It was infernal." Life of H. Mann, p. 283.

[2] History of the Rebellion, p. 302.

[3] "If the north generally, whose high prosperity is the result of unrestricted intercourse with the south, refuse the terms we prescribe, let us talk no more about the blessings of Union." Congr., Globe, 31st Congr., 1st Sess., App., p. 139.

permanent government on earth." And equally strange it seemed after the announcement, that California and probably in a short time, also, New Mexico would apply for admission into the Union, and after the recommendation to grant these two requests, to hear the assertion: "By awaiting their action all causes of uneasiness may be avoided and confidence and kind feeling preserved." To be sure, there was all the more pertinence in the repetition with solemn emphasis of Washington's earnest warning not to give "any ground for characterizing parties by geographical discrimination." But, unfortunately the grounds for this did exist, nothing could do away with them, and, from this time on, nothing was talked of in both Houses of Congress but these grounds. While in the House of Representatives, Root, of Ohio, moved (December, 31st,) to instruct the committee on the territories to bring in a bill for the organization of the former Mexican domain east of the Sierra Nevada with express prohibition of slavery.[1] Mason, of Virginia, introduced in the Senate (January 4) a bill to make more severe the law for the delivery of fugitive slaves. And the character of the "kind feeling" was shown by a debate between the two southern senators, Benton and Foote, on the 16th of January, 1850, which, on the part of the latter, degenerated

[1] Clingman, who had hitherto passed for very moderate, notably because he had opposed the "gag rule," said on the 22d of January in a speech which is characterized by the final words: "attempt to trample on us and we part company." "Remember, sir, that this very territory was acquired by conquest, and that while the south, according to its population, would have been required to furnish only one-third of the troops, it in point of fact did furnish two-thirds of the men that made the conquest. And the north, deficient as it was comparatively in the struggle, now says that its conscience, or its cupidity, will not permit us to have the smallest p[illegible]tion of that territory. Why, sir, this is the most impudent proposition that was ever maintained by any respectable body of men." Congr. Globe, 31st Congr., 1st Sess., p. 201.

into the most vulgar abuse. Benton had introduced a bill, which, without entering into the legal foundation of the boundary claims, reduced Texas conditionally on its assent to about one-half, or rather for the future, to about a quarter of its claimed extent, and, in return for its renunciation of further claims and for its national independence abandoned by its annexation to the Union, offered it an indemnity of fifteen millions of dollars. Although the bill was only a modification, corresponding to the altered state of affairs, of a bill brought in by Benton on the 11th of December, 1844, that is before the annexation, Foote, nevertheless, accused him in the foulest terms of having stolen his (Foote's) bill for the organization of the territories of California, Deseret (Utah) and New Mexico, and for the construction of the State Jacinto.[1] The vanity of the flighty Mississippian and his hatred for Benton, a hatred prolonged even beyond the grave, were in part the causes of this brutal attack. What put Foote in such a rage, was his conviction that "every foot" of the territory to be purchased from Texas "would infallibly be claimed as subject to the Wilmot proviso." Certain resolutions of the legislature of New York had (he said) proposed exactly the same reduction of Texas "for the purpose of perpetrating a most hideous fraud upon the south." This righteous indignation especially became the Senator who declared that the north, in spite of the adoption of the Missouri line in the resolutions of annexation, had no claim whatever to any part of Texas, and would also assuredly never get any of it; only in case, with the assent of Texas, a new state should be formed exclusively out of the territory lying north of 36° 30′, would it fall to the north, and Texas would take good care never to divide its territory in this way. It would, indeed, divide itself up into as many

[1] A new slave state to be formed out of the Texan territory.

states as the resolutions of annexation permitted, but it would draw the boundary line in such a way that all would fall to the south.[1]

Even from these first motions and the introductory debates upon them it became clear, that it was not merely a question of coming to an understanding on this or that particular point, but that the whole slavery question was made the order of the day. Whatever might be the decision of the temporary burning questions of the day, the south would inevitably in the end be the losing party, for the very nature of slavery brought with it that at every revision of the documents the cause of the slavocracy looked worse than before, from economic, social, and ethical standpoints. The more aggressive its attitude, the higher it raised its demands and the more sharply and definitely it stated them as its "ultimatum,"[2] the more would it inevitably expose its weakness and the fundamental incompatibility of its principles on all sides with the views, ten-

[1] Jefferson Davis avowed similar views later: "Now, sir, we are in a minority, and every year becoming relatively less. We have a wide domain within the limits of Texas. It is the duty of every southern man, at least I feel it to be my own, to protect every acre of it to the maintenance of the political power of the south." Congr. Globe, 31st. Congr., 1st Sess., p. 1162. It hardly need be said, that the representatives of Texas itself maintained the same position. Cfr. Ibid., p. 207. "If there is any portion of the new state south of that line (36° 30′,) Texas has a right to insist upon its coming into the Union with slavery; and good faith to the south requires that she shall insist upon the terms of the compact. Sir, Texas will stand up to the south, on the question of southern rights, as one man. She will never consent, under the pretence of settling her boundary that her rights as a southern state, under the resolutions of annexation, shall be impaired, by introducing within her limits the principle of Free Soil where slavery is guaranteed to her by the compact."

[2] Governor H. W. Collier, of Alabama, says in his message of Dec. 22, 1849: "The time for decided action has arrived, and I recommend to the general assembly to announce the *ultimatum* of Alabama upon the great question which now convulses the Union."

dencies, and necessary conditions of life of the modern civilized world. In order to be able to force through its demands it had to try to show that they were unavoidable necessities, and to do this it was obliged to paint both its own weakness, and this incompatibility in the most glaring colors. Hence the wild contradictory mixture of destructive self-criticism, and of grand iloquence and self-admiration pushed to the utmost insipidity, that appears in their already too gorgeous rhetoric. If they had any tenable arguments to adduce, such could be taken only from positive law. But even if we have to admit that they succeeded in talking themselves into an honest conviction that the legal right was with them, their opponents evidently could not but become more and more convinced that, in the pursuit of their separate interests, they had renounced all good faith, since, as their weakness increased and the contrast became intensified, they were forced daily to deduce new rights from the constitution, without any regard to their former constitutional doctrines. Every struggle, therefore, inevitably furthered the recognition of the necessity, as well as of the right and power, to set limits to them; and the successes they might achieve were the less able to counterbalance this injury, that such successes on their part, acted only as a spur to continue the conflict to final victory upon their opponents, who were defeated but never disheartened or convinced.

This reasoning is but a repetition of what the earlier phases of the development of the slavery question had demonstrated. But just this is the significant fact, that we have now only to repeat what has already so often served us as a key to the proper appreciation of the facts. It was not by the introduction of a new element, but by the irresistible development of an opposition founded in the nature of things, that the struggle had taken on the

character of an acute crisis. Every new speech is a further confirmation of this, and the conduct of a portion of the southern representatives betokens such progress in the knowledge of this all-important fact, that the crisis of 1850 could not but be the beginning of the end. These elements must be kept fixedly in view if we are rightly to understand the results of the crisis, and the rôle which individual statesmen played therein.

The first weeks of the session were more than enough to show in its full breadth and depth, even to the duller eyes, the abyss that yawned between the north and the south. Naturally, this task was undertaken mainly by the representatives of the south, and even men who had hitherto not belonged to the extremists, and who were also afterwards comparatively moderate, gave themselves up with a certain relish to the melancholy business. In the House, Meade and Clingman, among others, took it upon themselves to show that with the south it was not a mere question of a barren abstract right, but of a very real interest, and thus to deprive of all basis of support those —and there were many such conservatives both north and south—who, either from unfeigned shortsightedness or moral cowardice, sought to apply to the entire contest the device, "much ado about nothing." Meade, first of all, brought into prominence the negative side of the territorial question—too much overlooked, even to the present day. Whether the territories in question were adapted to slave labor or not, the south—wholly apart from the augmentation of political power they would have given the north in Congress—had a great interest in not allowing them to become a domain of free labor, for "instinct tells us slaveholders * * * that institutions hostile to ours shall not exist neither west nor south of us."[1] He also

[1] Congr. Globe, 31st Congr., 1st Sess., App. p. 139.

informed the south, in argument with Hilliard, of Alabama, that it might as well immediately set about emancipating its slaves, if it allowed the slaves to be shut up within their present limits.[1] And lastly, he reminded them that his own state had "a slave population of near half a million, whose value is chiefly dependent on southern demand"[2]—an element whose high significance in the

[1] These admissions afford a valuable criticism of the assertion repeated *ad nauseam* by the south and its northern toadies, that the extension of the slave territory did not add one to the number of the slaves. Meade frequently touched on this point. The following declaration merits especial attention: "But for the fear of robbery under the forms of law, there would be at least fifty thousand slaves in California by the first of December. It is the best field for such labor now in America, and it would be invaluable to us as a means of thinning the black population." Ibid., p. 757. Clingman said: "Slavery is to be kept, they say, where it now is, and we are to be surrounded with free states. These states not only prohibit the introduction of slaves, but also of free negroes into their borders. Of course the whole negro population is to be hereafter confined to the territory of the present fifteen slave states. That population in twenty-five years will amount to seven or eight millions, and in fifty years to fifteen millions. However dense the population might become, the negroes will not be gotten away, but the wealthier portion of the white population (I mean such as were able to emigrate) would leave the territory. The condition of the south would, for a time, be that of Ireland, and soon, by the destruction of the remnants of the white population, become that of San Domingo. There are those now living who would probably see this state of things; but it would be certain to overtake our children or grandchildren. These facts are staring us in the face as distinctly as the sun in the heavens at noonday." Congr. Globe, 31st Congr., 1st Sess., p. 203.

[2] His colleague, Seddon, likewise referred to this: "I know some think the nature of these countries, and the necessities of their clime and productions, must exclude slavery. So do not I. In all new countries where labor is dear, and domestic servants particularly are not to be obtained, if law allows, the conveniences and desires of men will, in my opinion, demand slaves. In mining operations they would confessedly be most valuable; and at this very moment, did the south enjoy her rights, her whole slave property would already have felt the appreciation of a large demand for emigration to California." Ibid., App. p. 78.

development of the opposing tendencies in the south we shall hereafter learn to appreciate. Clingman warned the north to make it perfectly clear to itself that it had got to give the south "something substantial,"[1] and furnished an excellent commentary on Meade's first remark by the declaration that he, for his part, would rather renounce all California, and accept in its stead the entire district lying east of it as far up as the 40th degree, that the south might thus acquire "a proper frontier" in the mountain chain and western wilds.[2]

In the Senate, the complaints of the south at the neglect of its duty by the north, with regard to the delivery of fugitive slaves, gave occasion to show that the opposition of the moral feelings of the two sections with regard to slavery had reached a point where neither could possibly understand the other. Mason had bitterly complained that this matter had already rested in the Senate two years without advancing a step. Now (January 22d), he moved to the bill introduced by the judiciary committee two distinct additional amendments, which excluded the testimony of the alleged slave in his own cause, and imposed severe penalties of fine and imprisonment on all who manifested their sympathy with him by deeds. Seward, on the other hand, moved an amendment, referring such cases to jury trial, and securing to the alleged slave the assistance of counsel and the privilege of the writ of *habeas corpus*.[3] Foote, after promising to avoid all violations of senatorial

[1] Seddon also said: "We of the south, Mr. Speaker, are not struggling against a name, nor are we to be deluded by shadows. We are claiming a substance and a reality." l. c.

[2] We might then acquire, at some future day, whether united or divided, possession of the country along the Gulf of Mexico, well suited to be occupied by our slave population. Congr. Globe, 31st Congr., 1st Sess., p. 204.

[3] Ibid., p. 236.

"good taste," opposed the printing of this amendment, because it would "do deep injury to the reputation of the honorable Senator from New York, both in this country and in foreign lands." He pronounced the amendment an offspring of "genuine demagogism," and portrayed the indignation that would fill the north with expressions properly applicable only to a common criminal offense of the most dishonoring and fearful character.[1]

Was Stephens a pessimist when he declared his view, expressed on the 25th of December, that all might yet come out well to be an error, and holding, that, at the most, a temporary settlement was attainable, advised the south while this settlement lasted to make comprehensive preparations for the inevitable decision of the contest by the sword?[2]

[1] "For, sir, it cannot be that the American people have yet reached a depth of degradation so profound, and have become so regardless of all the principles of fairness, and liberality, and disinterested patriotism, as not to look upon this formal and deliberate attempt of the honorable Senator from New York to spoliate upon the known and undeniable rights and interests of all the Southern States of the Confederacy with pointed disapprobation, with hot contempt, with unmitigated loathing, and abhorence unutterable." l. c.

[2] Jan. 21, 1850, he writes to his brother, Linton: "Will the slavery question be settled in this way [by the admission of California and New Mexico as states] ? I think not. My deliberate opinion at this time, or the opinion I have formed from the best light before me, is that it will be the beginning of an end which will be the severance of the political bonds that unite the slaveholding and non-slaveholding states of this Union. I give you this view rather in opposition to the one I ventured to express on the evening of the 25th of December. I then looked to settlement and adjustment and a preservation of the Union; and as far as I then saw on the horizon, I think the opinion was correct. There will, perhaps, be a temporary settlement and a temporary quiet. But I have lately been taking a further and broader view of the future. When I look at the causes of the present discontent, I am persuaded there will never again be harmony between the two great sections of the Union. * * * The present crisis may pass; the present adjustment may be made; but the great question of

The individual is always inclined to apply the measure of his own existence to the great process of development of the world's history. Certain as it was that a considerable portion of the southern politicians were already contemplating the question of secession with earnest resolve, it had been equally certain from the start that, this time, a compromise would again be in some way effected. The masses were not yet nearly ripe for the extremity of secession, and the leaders had, therefore, to possess their souls in peace. Foote's declaration, that the time for compromises was now past, or, at least, that if any should now be concluded the offer would have to come from the north[1] was idle talk. The south was the minority which made demands and could not yet execute its threats, and it had, therefore, a much greater interest in the effectuation of a settlement that it could accept, than the north, which did not even believe in the seriousness of the threats. Foote

permanence of slavery in the southern states will be far from being settled thereby. And, in my opinion, the crisis of that question is not far ahead. The very palliatives, now so soothingly administered, do but more speedily develop the stealthy disease which is fast approaching the vitals. * * * My opinion is that a dismemberment of this republic is not among the impossibilities of a few years to come. In all my acts I shall look to that event. I shall do nothing to favor it or hasten, but I now consider it inevitable. * * * If I were now in the Legislature, I should introduce bills reorganizing the militia, for the establishment of a military school, the encouragement of the formation of volunteer companies, the creation of arsenals, of an armory, and an establishment for making gunpowder. I tell you the argument is exhausted, and if the south do not intend to be overrun with anti-slavery doctrines, they must, before no distant day, stand by their arms. My mind is made up; I am for the fight, if the country will back me. And if not, we had better have no 'resolutions' and no gasconade. They will but add to our degradation. * * * It is a great mistake to suppose that the south can stave off this question. We have, ultimately, to submit or fight." Johnston & Browne, Life of Al. H. Stephens, pp. 244, 245.

[1] Jan. 16. Congr. Globe, 31st Congr., 1st Sess., p. 168.

was not only given the lie by events, but he gave himself the lie by his own after conduct, in a way that exposed him at any rate, to the charge of deliberate rhodomontade. The border states which, in consequence of their geographical situation and the mingling in them of the two economic systems, had always had to act as buffers between the north and the south, were now, too, necessarily the most interested in a settlement. Involuntarily, therefore, all eyes were turned to the man who had already twice proved himself the greatest master in the art of wiping from the state all differences of principle, and inducing the north to grant to the slavocracy a portion of its demands in return for a renunciation of the immediate carrying through of its further claims.

As early as the 2nd of January, 1850,[1] Clay announced to his son James that he was engaged in "some comprehensive scheme of settling amicably the whole question in all its bearings." The old garment, torn at every point, was to undergo a general reparing with new patches. On the 21st of January, he communicated his project to Webster in confidence, and the latter immediately declared his agreement with it on all essential points.[2] Eight days later, Clay laid it before the Senate in the form of resolutions. It embraced eight points: 1st—California is to be admitted as a state at its own request, with suitable boundaries, and that, without prescribing anything to it with regard to slavery; 2nd—Since slavery has no legal existence in the territories acquired from Mexico, and will

[1] From the entire contents of the letter it is plain that this is the right date. It is, however, not merely a printer's error, but a gross oversight on the part of the publisher that the Priv. Corresp., p. 582, dates it Jan. 2, 1849, for it is placed at the beginning of the correspondence of 1849.

[2] Curtis, Life of D. Webster, II., pp. 397, 398.

probably not be introduced there, territorial governments are to be established without making any arrangements for the introduction or the exclusion of slavery; 3rd—Determination of the boundaries of New Mexico; 4th—Texas, if it will abandon its claims to the territory of New Mexico, is to be granted a sum, to be more specifically determined, for the payment of the debts for which it pledged its revenues as an independent republic; 5th—The abolition of slavery in the District of Columbia is not advisable; 6th—The prohibition of the slave trade in the District of Columbia is advisable; 7th—The law for the delivery of fugitive slaves must be made more severe in order to make it effective; 8th—Congress has no right to prohibit or hinder the slave trade between states.

In the speech with which Clay introduced these resolutions, he signalized as their chief merit that they required of no party the sacrifice of its principles, that is, in other words, that they completely ignored the admitted opposition of principles, and he sought to make the temper of the north more yielding, by the assertion that for it the question was one of "sentiment, sentiment, sentiment alone." He who has learned to understand the nature of the slavery question from its previous history requires no further criticism of the project and of the competency of its author. If the object was to postpone the catastrophe at any cost, without regard to the effect the delay must exercise upon its character and intensity, then Clay was the right man for the crisis; but if the object was to prepare the way for an attempt at a solution of the problem, then the task could not have been entrusted to hands less fit for it.[1]

[1] The *Independent* truly says of Clay: "There have been few statesmen in our country whose policy upon moral questions has so thoroughly debauched the moral sentiment of the people." Feb. 9th 1854, p. 44.

Although Clay had begged them not to enter immediately upon the discussion of his resolutions, but to give themselves time for ripe consideration of them, Rusk immediately protested against the assumption that Congress had any authority whatever regarding the boundaries of Texas,—Foote thought that he ought not to delay a moment his protest against several of the doctrines laid down in the resolutions,—Mason joined him "on the part of Virginia"—Jefferson Davis accused Clay of breaking down even the earlier erected bulwarks of the south, and in agreement with Downs, declared, that in these resolutions the south came away with empty hands, while the north took everything,—Berrien thought essential changes and additions requisite, in order to make these propositions acceptable to the south,—Butler reminded the north "that all the compromises that have been made have been by concessions, acknowledged concessions, on the part of the south," and thought that there was the less possibility of putting another such bargain upon the south, as the resolutions attempted to do, because the old compromises sufficed if they were only executed faithfully, that is, in accordance with the interpretation of the southern radicals. On the side of the north, not a voice was raised in protest; only Cass seized the opportunity to make a wholly irrelevant remark. It could not, of course, be concluded from this that all the northern senators approved the resolutions, but it did justify an expectation that the majority would be ready to negotiate on this basis. Now, as Clay himself, in the above cited letter of the 2nd of January, had declared it probable that the majority of the Senate was in favor of the Wilmot proviso, it can be easily seen how strongly the desire for peace must have already made itself felt in the north, since Clay now declared that in his opinion the resolutions were a more advantageous offer for

the south in the main point, the territorial question, than even the extension of the Missouri line would be.[1]

Thus, from the standpoint of the southern radicals, it was certainly the right policy to act from the first as if these propositions could not be thought of at all; if eight months parliamentary noise had accomplished so much, still more could surely be gained by continuing the noise a few months longer.

With the aid of the Senate alone, no more could be accomplished than in the last two sessions, viz., a postponement of the decision; and, according to Clay's testimony, the House, as late as the beginning of the year, had a "considerable majority" for the Wilmot proviso.[2] Now, however, the House declared its submission. Stephens' motion to lay upon the table Root's resolution

[1] "And I say, sir, in my place, that I consider it much better for the south that the whole subject should be open on both sides of an imaginary line—for instance the line of 36° 30'—than that slavery should be interdicted positively north of 36° 30', with freedom to introduce or establish slavery south of that line, according to the will of the people; and the proposition that I have made is infinitely better for the south than the proposition which the Senator (Jeff. Davis) has suggested, unless he could persuade Congress to adopt his proposition to declare positively and absolutely the right to introduce slavery south of that line." Congr. Globe, 31st Congr., 1st Sess., p. 249.

[2] Clingman said as late as January 22nd: "Sir, the force and extent of the present anti-slavery movement of the north is not understood by the south. Until within the last few months I had supposed that even if California and New Mexico should come in as free states, the agitation would subside so as to produce no further action. A few months travel in the interior of the north has changed my opinion. Such is now the condition of public sentiment there, that the making of the Mexican territory all free, in any mode, would be regarded as an anti-slavery triumph, and would accelerate the general movement against us. * * * It is, sir, my deliberate judgment that, in the present temper of the public mind at the north, if the territorial question remains open till the next election, few, if any, gentlemen will get here from the free states that are not pledged to the full extent of the abolition platform." Ibid., p. 201.

which charged the committee on the territories to introduce bills for the organization of the territories with express prohibition of slavery, had been rejected on the 31st of December by 101 to 81 votes. On the 4th of February, Haralson, of Georgia, renewed Stephens' motion and it was now passed by 105 to 75 votes. Of the northern representatives, 32—18 Democrats and 14 Whigs—voted for Haralson's motion, and 27 were absent at the time the vote was taken. Two resolutions brought in by Giddings, which sought to secure the territories for freedom by the introductory words of the Declaration of Independence, shared the fate of Root's resolution. The northern representatives made no attempt to disguise the fact that these votes meant a renunciation of the Wilmot proviso. From this time on the question was no longer: Will the north or the south prevail? but: How much will the south get? That partisan of the south who, on the 26th of February, wrote to the *New York Herald* from Washington, that they were on the eve of a revolution and that the first blood would flow in the Capitol,[1] was either

[1] "We are on the very eve of bloodshed in the Capitol. There is no telling when its crimson streaks may deluge the halls of Congress. Without a moments warning, civil strife and massacre may commence, for it will begin here. The first blood will not be spilt at Nashville, it will be in Washington. There is a fearful and alarming state of things here, and when and where it will end, God alone knows. * * * It is revolution that we are starting upon—revolution in the most tremendous and dangerous form. It is a revolution of the southern minority against the overbearing tyranny of a majority—the worst form of tyranny which can exist." *New York Herald*, Feb. 28, 1850. The threat that the civil war might begin in Washington itself and in the hall of session of Congress, was, for the rest, not an invention of this correspondent. In the speech of the 22nd of January, repeatedly cited, which made so great an impression upon the conservatives and timid ones of the north, Clingman said: "I tell you, gentlemen, that if we cannot in advance get a fair settlement of this question, I should be pleased to see the civil and diplomatic bill,

utterly incapable of comprehending the situation or he was among the southern politicians who had adopted the policy of intimidation, what the wall painter is among artists. After the votes of the 4th of February in the House, it was certain that the majority of Congress would again act so as to confirm Toombs' assertion that the Union was a pro-slavery state.[1] Under these circum-

the army and navy bill, and all other appropriations, fail. We should thereby make every officer and every expectant of public money directly interested in having justice done to the south. It would be far better to have this temporary inconvenience for a year or two, than that we should see a bloody revolution, or something worse. I hold it to be the duty of every southern representative to stay here and prevent, till the close of our official term, the passage of any measures that might tend to force our people to unjust submission. In the mean time the southern states could, in convention, take such steps as might be necessary to assert their right to a share in the public territory. If this interregnum were to continue long, it might drive both sections to make provisional governments, to become permanent ones in the end. But it is advised, in certain portions of the northern press, that the members from that section ought to expel such as interrupt their proceedings. Let them try the experiment. I tell you, gentlemen, that this is our slaveholding territory. We do not intend to leave it. If they think they can remove us, it is a proper case for trial. In the present temper of the public mind, it is probable that a collision of the kind here might electrify, as did the little skirmish at Lexington the colonies in their then excited state. Such a struggle, whoever might prove the victors in it, would not leave here a quorum to do business. Gentlemen may call this *treason*—high treason—the highest treason that the world ever saw. But their words are idle. We shall defeat their movements against us." Congr. Globe, 31st Congr., 1st. Sess., p. 205.

[1] "We have the right to call on you to give your blood to maintain these thousands and all the rest of the slaves of the south in bondage. It is 'so nominated in the bond.' Yet with these obligations resting upon you, we are told by you that slave property is out of the protection of the government. Gentlemen, deceive not yourselves, you cannot deceive others. This is a pro-slavery government. Slavery is stamped upon its heart—the constitution. You must tear that out of the body politic before you can commence the work of its eradication." Congr. Globe, 31st Congr., 1st Sess., Append., p. 199.

stances, it would have required a fanaticism bordering on absolute madness to think it still possible to hurry into a revolution a majority of the southern representatives—to say nothing of the masses. Accordingly we find that, as early as the 16th of February, Webster had announced to Everett that the clamor about the disruption of the Union was beginning to abate.[1] And on the 21st of February, Foote, who during the first two months of the session, had danced with such grotesque leaps in the front line of the radical ring, moved the appointment of a committee of thirteen members to elaborate a plan for a general compromise.

The goal, it is true, was still far from being attained. The attention of the people henceforth was directed chiefly to the Senate, not so much because the statesmen of most famous names and widest influence sat there, as because it was felt that, in view of the attitude which that body had maintained on the slavery question through all the years, the initiative properly fell to and was incumbent on it, now that it had been decided that there was to be a new compromise. But even now nearly two full months went by before it even came to a preliminary decision whether a general programme was to be set up, or whether each individual question had best be separately treated and settled. The stream of debate flowed on unceasingly, overspreading the entire broad field of the slavery question. As a matter of course, the Senate and the people had a chance of hearing much that they had already heard innumerable times, but, nevertheless, the time was by no means thrown away. Speeches were delivered which threw a new, strong, and striking light, not merely upon the momentary situation, but also upon the nature of the entire question, which the friends of compromise were so

[1] Webster's Priv. Corresp., II., p. 355.

anxiously striving to cover under mountains of sophisms, pompous phrases, and patriotic wishes and feelings; and speeches were delivered which were in themselves important historical deeds.

From Calhoun little had yet been heard this session, although no one had followed the course of events with more intense interest or more passionate emotion. He had come to Washington with the seeds of death in his frame, but his intellect preserved its old clearness and acumen, and his iron will forced his sick body to serve it as a dwelling place until he had reduced his political testament to writing. On the 4th of March he laid it before the Senate, which listened with unfeigned emotion. His legs and his painfully breathing lungs refused to serve him, and he was forced to allow Mason to read the speech. "A somber hue pervaded his whole speech," said Cass. Yes, in spite of the cold self-restraint and soberness of the language, it was somber as the man himself, with care-furrowed brow and broken frame, somber as the grave into which he was sinking! He had no dread of the grave, for he had been fearfully honest and true to his convictions in the service of the cause to which he had devoted the best powers of his entire life, and no self-accusations tortured him in his last hours, But he felt that the vote of the constituent convention of California on the slavery question was the first line of the last chapter of the history of that question in the Union. He could not bring himself to avow that he was taking with him to the grave "this Union," and with it slavery; but it was only because he would not that he did not see this. He carried with him to the grave no hope, but only anxious forebodings and cares which were justified by the clearest insight. "I have, Senators, believed from the first that the agitation of the subject of slavery would, if not prevented by some timely and effect-

ive measure, end in disunion." It was a melancholy satisfaction for the man who, for more than a generation, had played one of the first rôles in the counsels and in the government of the country, to be able to introduce his last great speech with these words. All the southern states, he affirmed, had now recognized the justice of this view. Universal as was the dissatisfaction then, equally general was the conviction that honor and safety forbade their remaining in the Union under the existing state of affairs. The ultimate cause of this dissatisfaction, and of this conviction, was the disturbance of the originally almost perfect balance of power between the two sections, which had furnished each with the means of protecting itself against the encroachments of the other. Now it was in the power of one section completely to control the government, and its preponderance was rapidly increasing every day. If this were simply the effect of time, the south would have no right to complain; but it was in reality the result of the unfair and unconstitutional federal laws, which were *a fraud* upon the south. The constitutional federal republic had been transformed into a state which was in fact as absolute as the Russian autocracy, and as despotic in its tendencies as any absolute state that had ever existed. Was it to be expected, nay, was it possible that without some external impulse a revolution would take place, and that the Union would be brought back to its original basis? Not one of the causes which had called forth the abolitionist agitation had disappeared; but all had developed from contemptible beginnings into mighty forces, while the power of resistance of the south had been growing weaker in every respect. Was it not then clear that unless remedies of the most thorough going character were adopted, the south would be compelled to choose between abolition and secession? As things were

now going, not even secession would be required to effect the dissolution of the Union—the agitation would of itself bring it about. But "it is a great mistake to suppose that disunion can be effected by a single blow. The cords which bound these states together in one common union are far too numerous and powerful for that. Disunion must be the work of time. It is only through a long process, and successively, that the cords can be snapped until the whole fabric falls asunder. Already the agitation of the slavery question has snapped some of the most important, and has greatly weakened all the others." Of the four great Protestant religious communities, only the Episcopal church remained intact; a wedge had been driven into the Presbyterian church, and the Methodists and Baptists had already divided, and hence, in so far the dissolution of the Union was an accomplished fact.

Could the Union, in spite of this, be preserved? There was but one way: the southern states must be convinced that they could remain in the Union with honor and safety, and this could be done only by removing the causes of their discontent. This was done neither by Clay's proposition nor by the plan of the administration—to admit California as a state with its present constitution and to let the question rest in the territories until they were ready to be admitted as states. The south must be satisfied, and this could "easily" be done, since it demanded only justice and a conscientious observation of the constitution—the only compromise it had to offer. "The north has only to will it to accomplish it—to do justice by conceding to the south an equal right in the acquired territory, and to do her duty by causing the stipulations relative to fugitive slaves to be faithfully fulfilled—to cease the agitation of the slave question and to provide for the insertion of a provision in the constitution by an

amendment which will restore to the south in substance the power she possessed of protecting herself, before the equilibrium between the sections was destroyed by the action of this government."[1] If the north was not willing to do this, they could separate in peace, and if it would not consent to this either, it had but to say so, and the south would know what it had to do.

With regard to the amendment to the constitution, which he thought necessary for the preservation of the Union, Calhoun said in his speech only that it would be easy to find a provision which would accomplish the object desired. In a treatise entitled, "A Discourse on the Constitution and Government of the United States," which had appeared in the course of the year 1849, he develops in detail his ideas upon this all-important point. It appears at once from these explanations, that he did not regard an amendment to the constitution as in itself sufficient. He required first the abrogation of all laws—naming the most important—which had metamorphosed the federal character of the Union into a national character. But this alone would not suffice to undo what had been done, nor to reëstablish the disturbed equilibrium of the two sections. The weaker section, therefore, could be secured against new encroachments only by giving it a constitutional veto on all the decisions of the federal government. That such a veto was not incompatible with the

[1] Seward remarked on this: "The theory of a new political equilibrium claims that it once existed, and has been lost. When lost, and how? It began to be lost in 1787, when preliminary arrangements were made to admit five new free states in the northwest territory, two years before the constitution was finally adopted; that is, it began to be lost two years before it began to exist." Works, I., p. 64. It must be remembered that the ordinance of 1787 was not passed over the resistance of the southern representatives, but with their assent and coöperation.

organic laws of a great political community was proved by —— Poland where, forsooth, the application of the principle had been carried much further. The action of the government would thereby be somewhat delayed, perhaps, but it would gain all the more in moral force. Only then would the Union become a real one, that is a union of feeling and of brotherly love. This "strong negative," which strengthened every strong government, might be organized by placing the executive power in the hands of two Presidents. Each section would have to choose a President; to one would belong the guidance of external affairs, to the other that of internal affairs; but every act of Congress would require the assent of both in order to become legally binding.

No more convincing and irrefutable proof could be given that the preservation of the Union was not "easy," but simply impossible, if Calhoun's premises were sound, as they unquestionably were. How could the north check the agitation of the slavery question, how could it even "desire" the repression of that agitation, while every influence that made it regard slavery as a "sin" had gained tremendously in power? Congress might vote the abrogation of the entire body of federal legislation, but could this annul the actual development which the Union had passed through since the day of its origin? Of what avail to set up the "principle," "that the power and action of the Union, instead of being increased, ought to be diminished with the increase of its extent and population," if, apart from the one element of the slavery question, the real oneness of interests was every day increasing and imperatively demanding suitable legislative recognition? Calhoun's only way to save the Union was in reality a dissolution of the Union. Where was anything about "sections" to be found in the constitu-

tion? Were not the sections themselves, in the sense the word now bore, the product of a course of development, which was in contradiction with the principles of the Union? What became of the fundamental principle of the states rights doctrine, which, in a modified sense, was also a fundamental principle of the constitution—the legal equality of the states, if a standing minority of them was to possess an absolute veto over a standing majority? How could there be any more talk of a Union at all, if the federal state was to be broken up by the constitution into a permanent united minority and a permanent united majority, which in each particular case would have to arrive at a complete understanding in order to make legislative action possible?

How gross the injustice done to this man by the charge, that he desired the disruption of the Union, and had for many years, with full consciousness of his object, systematically labored to this end. As soon as he perceives that the dissolution of the Union is no longer merely a danger to be apprehended, but a fact in process of accomplishment, he devotes the last remnants of his powers to finding a way of salvation, and so utterly incapable is he of avowing to himself that there is no way, that he, the keenest political thinker of the south, draws up a plan for saving the Union which is one of the most monstrous political absurdities that ever was devised. He had, indeed, contributed more than any other man to make the slavocracy the political ruler of the Union and thereby to render inevitable the present breach, but in his eyes to abolish slavery would be to convert the planter states into a bloody chaos, and he recognized that an absolute precondition of the permanent maintenance of slavery in the Union was the political supremacy of the slavocracy. It is true, he held it to be not only the incontestable right,

but also the sacred duty of the south to bid adieu to the Union, and, if necessary, to stake its all on the maintenance of its separate existence, if the only choice left it was that between abolition, that is loss of political rule, and secession; but his reason was never able fully to efface in his heart the direct Union sentiment. It is true that it was he who had uttered the words: Slavery is "a good, a positive good," and he really believed it, but it was only his successors—the epigons—his inferiors in both intellect and character, that could wax enthusiastic for a confederation with slavery for its corner stone, as the realization of the political and social ideal. When, after the reading of the speech, supported on the shoulders of two of his friends, he tottered out of the senate chamber, the doors that shut behind him closed on the second period of the history of the Union under the constitution, in which the star of the south had mounted to the zenith.

Three days later, on the 7th of March, Webster delivered his famous speech, which not only in the eyes of hundreds of thousands prepared a speedy and disgraceful end to his long and honorable career, but also, when taken in connection with Calhoun's speech and with Seward's 11th of March speech, to be considered hereafter, forms an important division in the history of the struggle of 1850.

If we examine the speech with the objectivity of the historian, we are tempted to ask whether its objectionableness does not lie less in what it says than in what it leaves unsaid, and in the way in which it says what it says.

Webster establishes the fact, that in both north and south the views of the nature and character of slavery have, in the course of time, undergone a profound alteration, but he has not a word to indicate that this antagonism in the way slavery was viewed—an antagonism daily

more sharply defined—is simply the result of opposing economic, social and political development. He makes it out that south and north need only to resolve to reason henceforth a little less passionately and to feel a little more patriotically, in order again to draw as near to each other in their views, as the fathers of the republic. The whole struggle wears the aspect of a foolish wrangle of blinded visionaries, because there is not a syllable to point out that it is based on opposing ethical principles, and on a conflict of real interests.[1] He proves to the south the unfairness of its complaints by reminding it, that it had acquired Louisiana, Texas, and Florida only by the coöperation of the north, but he makes no reference to the effects which the strengthening of slavery, by these acquisitions, had exercised upon the views and temper of the north. He rightly says that morals cannot be treated like a mathematical problem, and that he who becomes a fanatic for one truth and for one duty, will trample under foot other truths and other duties; but he neglects to enquire whether the assertion that slavery had become irreconcilable with the moral views of a majority of the people and with the general tendencies of their institutions otherwise considered, and of their economic relations—is

[1] This assertion is well founded, although Webster does bring into prominence the fact, that the change in the views of the south was brought about by the great development of cotton. On the 18th of May, he writes: "I suppose no history shows a case of such mischiefs arising from angry debates and disputes, both in the government and the country, on questions of so very little real importance." Priv. Corresp., II., p. 370. And on the 17th of July, he says, in the Senate: "Here have we been seven and a half months, disputing about points which, in my judgment, are of no practical importance to one or the other part of the country." Works, V., p. 436. The character of the American people must have undergone a singular transformation, if the entire Congress had thus suddenly been changed into a debating club of nephelococcygians.

a truth. There was no disputing his proposition that the clause with regard to the delivery of fugitive slaves was legally as binding as any other provision of the constitution, but the assertion that the north would fulfill "with alacrity" this duty of honor and conscience, as soon as it became clear on the subject, was worse than an absurdity. Had Webster completely lost the power of comprehending, that a constitution may, in certain respects, give expression to the ethical convictions of a people, but can never be the source of such convictions, and that in a Democratic republic a constitutional provision which has become irreconcilable with the ethical convictions of a majority of the people is an absurdity, and that it must finally become absolutely impossible to execute? And in truth, because morally the ground under his own feet had become a quicksand, he no longer understood the nature of the ethical development represented by the history of the slavery question. A Senator of Massachusetts who could say that the abolitionists had done "nothing good or valuable" and had only bound the slaves faster,[1] from impure and selfish motives, either was degrading himself into a parasite of the slavocracy, or had become a stranger in his own house, a dead man walking amid the living. Web-

[1] "Every thing that these agitating people have done has been, not to enlarge, but to restrain, not to set free, but to bind faster, the slave population of the south." April 29, he said publicly, in Boston: "I shall support no agitations having their foundations in mere ghostly abstractions;" and regarding the delivery of fugitive slaves: "The simple question is, whether Massachusetts will conquer her local prejudices." Curtis, Life of D. Webster, II., p. 438. And on the 1st of June, he writes to a friend whom he made use of to defend his attitude in the press: "But agitation had arisen—theoretic, fanatical, and fantastical agitation—and under a loud cry of anti-slavery led away silly women and sillier men, who formed a considerable party, and both the great parties strove to see which could win this third party by the greatest yielding to its clamor and its nonsense." Ibid., p. 427.

ster, however, with painful eagerness sought to prove, that he had sounded the warning watch cry through the land, while everything round about still lay in deep sleep, and that he was still standing in full panoply at his post on the battlements of the citadel of freedom, as wakeful and as eager for the fray as ever. He had passages read from his earlier speeches to prove, that as early as 1837 he had forged the "thunder," which those who were clamoring for the Wilmot proviso now sought to give out as "their invention." For this reason he thought he ought to be believed when he told them now, that the thunderbolts must be packed up and laid aside because they were no longer needed and were annoying to southern ears. Irreversible natural laws made slavery impossible in the districts acquired from Mexico, and therefore he should oppose an express prohibition of it in the law for the organization of New Mexico.[1] He claimed to have read everything that could instruct him about these laws, but all he could adduce in support of his assertion was, that California and New Mexico were not adapted to the planting system. He must have skipped all the passages which treated of the mines and of the expectations which a large number of the slaveholders attached thereto; and

[1] "I would not take pains uselessly to reaffirm an ordinance of nature, nor to reënact the will of God." Even long after the civil war it has often been attempted to repel all attacks on Webster by the mere repetition of this pompous sentence. The two following sentences, from the majority report of the "committee of thirty-three," render all criticism of this standpoint superfluous. "In the year 1859 the territorial Legislature of New Mexico established slavery in that territory. This law was disapproved at the last session of Congress by a vote of the House, but the Senate have not yet acted on the bill, and so the law of the territory, not having been annulled by both Houses of Congress, remains in full force, and slavery now exists by law in New Mexico." Rep. of Committees, 36th Congr., 2nd Sess., Vol. I., No. 31, p. 6.

he must have always failed to hear the declaration of the southern representatives, repeated on innumerable occasions, that the question of the jurisdiction of Congress with regard to slavery in the territories was of the utmost consequence to them, not only on account of the principle, but also with regard to future acquisitions of territory. The greatest consideration must be exercised that the south may not feel that "at least a plain theoretical wrong" has been imposed upon it by the Wilmot proviso, and that its pride "whether a just and a rational pride, or an irrational pride" be not wounded; but that the north had just as good a right as the south to insist upon the question of principle as such, and, that, in a constitutional state it is in itself a matter of the greatest importance to come to a decision as to the rights of a question which has been contested with the utmost passion for many years, and which, furthermore, involves a decision on principle of the disputed political and legal character of the state; all this the great Senator from Massachusetts did not comprehend, he who deemed it in good taste and logical to close his great speech, in this the mightiest conflict of minds on the slavery question, with the assertion that the federal government "has trodden down no man's liberty," and "its daily respiration is liberty."

Did it require the mighty brain of Daniel Webster to perceive that the question of principle, as such, was of the highest practical significance, even though another law of nature had made it certain that the United States would never make any more acquisitions of territory, and even if it were true, as Webster asserted, that there was now not a foot of land in the Union the character of which, as far as slavery was concerned, was not determined by an irreversible law of some sort? There was but one really statesmanlike word in the speech, and that was the

assertion, repeatedly made with the strongest emphasis, that "peaceful secession" was, and would always remain an impossibility. But here again he was silent on the most important point. He pointed out the fact, but said nothing of the question of right. During the troublous times of nullification he had been at the head of the little band who had stood firm for the maintenance of the supremacy of the law, if it must needs be, even by the sword. Could he not see that in the present conflict of principles was involved the question whether the law was to rule, or whether the command of the slavocracy was to be the supreme law? This power threatened to dismember the Union if the majority ventured to exercise an authority that belonged to Congress, according to their constitutional convictions, and which, from the time of the adoption of the constitution, Congress had exercised with the coöperation of the southern representatives. Could, then, a speech which contained not a word about the principle, and which conjured the north virtually to yield to the threat, properly be denominated, as it was by Webster, a speech "for the constitution and the Union"? The constitution had become mere food for moths, and nothing but "ropes of sand" held the Union together, if the highest political wisdom and the purest patriotism required that Congress should, for such reasons as these, renounce the exercise of its legislative powers on this question.

The 7th of March speech is undeniably the darkest spot in Webster's political life, but it is also beyond question that great wrong has been done him in attributing it solely to the conscious object of getting himself installed in the White House by the grateful slavocracy.[1]

[1] On the 13th of June, 1850, he writes with reference to the personal consequences to himself now, and in the future, of his attitude: "I shall seize on no golden fleece, though I may be obliged to en-

The prospect of seeing his name conspicuous in the list of the presidents had not increased but rather diminished with the growth of his consideration and fame. The politicians did not find their account in placing at their head a man whom nature had made their master, and the masses gazed at him with admiration, and were proud that England admired him, too, and that all Europe acknowledged his preëminent ability, but they were never stirred to enthusiasm by him; they rated his greatness rather too high than too low, but it neither stimulated their imaginations nor set to stronger vibrations the deeper chords of their feelings. On the other hand, a large fraction in the highest circles of Massachusetts, New York and Washington society worshiped him with a regular cult. Even the darker spots in his moral character—his arrogance, his sins against the seventh commandment, his parading of a half-true religiousness, and particularly the unworthy unscrupulousness with which he laid the pockets of his friends under the heaviest contributions in order to tickle his spoiled palate or gratify his other expensive tastes, were not merely excused but indignantly denied, or even transformed into virtues. Even to-day there are to be found in Massachusetts many highly educated and very estimable people whom one would mortally offend by the slightest criticism of Webster's character—a phenomenon almost unique in the United States, and which proves what an all-powerful charm this rich intellect in its imposing dwelling must have exercised upon its immediate

counter some Lernæan and some Erymanthian animals." Curtis, Life of D. Webster, II., p. 428. The first statement was not quite true. W. W. Corcoran sent him a check for $10,000 as an expression of thanks and recognition for the 7th of March speech. "Mr. Webster met Mr. Corcoran the same evening at the President's, and thanked him for the princely favor." In Memoriam. B. O. Tayloe, p. 109.

surroundings. The adoration, going even to deification, of these followers, only too glad to sacrifice themselves, had the results which were to be expected from the qualities of human nature. Webster came to feel that he had a claim upon the presidency, which only envy, jealousy or stupidity could fail to recognize. He had repeatedly resisted the temptation to let the party suffer for not recognizing this claim, but now that "day declined and the evening drew nigh," he could not prevail upon himself to allow things to take their own course.

No unprejudiced reader can fail to perceive, that the 7th of March speech was a candidate speech and that its chief object was to win the favor of the south. It is true, Webster did not attribute to the north alone all the blame of the ruinous dissension; but of the latter's well grounded complaints he declared: "I need not go over them particularly," and it was only subsequently and by request of a friend that he introduced a few words regarding the treatment of free colored persons from the north in southern ports,[1] while he dealt with the grievances of the south in a way that won the liveliest recognition from the most fiery partisans of slavery. He tried anxiously to preserve the good will of the north, but he could refer it only to the past, because he was pledging the present and the future to the south, though it was done in the least offensive manner possible. But neither his understand-

[1] The Boston correspondent of the *Independent* writes on the 18th of March with reference thereto: "That even that punny passage where the great Senator seems to speak as if he had a northern heart, was not in its place when the speech was delivered, but has been inserted since, for home consumption: At this rate we shall, by-and-by, adopt the come-outer's toast, 'Winthrop and Webster, *par nobile fratrum*, with cotton consciences and coward hearts—like lean kine shivering in a December farm-yard—they follow the sunshine around the haystack as they feed.'"

ing nor his conscience would have allowed him to do this if he had not believed that he was thereby best serving, not only his own personal interests, but also those of the Union. And it was only because he did believe this that the 7th of March speech was an historical event of far-reaching significance. Had he simply sold himself to the south, the speech would merit extended notice only in a biography of Daniel Webster, but in the general history of the country it would suffice to establish the fact in a couple of words. He had lowered his lance before the slavocracy and was therefore bitterly relegated to the limbo of the dead past by the progressive party in the north,[1] but he had not thereby ceased to be a representative man. He was not a character that in any circumstances would have readily adapted itself to the rôle of a lonely rock in a seething sea. He would have never broken so utterly with his past as he did in this speech, if he had not known that in so doing he was only placing himself at the head of the "conservative tendency," which had set in at the north and which had from the start gained great strength through the leading commercial circles.[2] But he had sadly deceived himself with regard to the breadth and depth of the stream. It was strong enough to give the slavocracy one more triumph and to postpone the day of the decision for ten years, but while temporarily smoothing the waters on the surface it forced the movement so far down into the depths that it finally acquired strength for the

[1] Parker writes: "I believe no one political act in America, since the treachery of Benedict Arnold, has excited so much moral indignation, as the conduct of Daniel Webster." Works of Th. Parker; Edit. Trübner, V., p., 115.

[2] See the *Independent* of March 21, 1850, p. 46. Stephens wrote as early as Dec. 5, 1849: "The north is beginning to count the cost. Not the Free Soilers, but the mercantile class." Johnston & Browne, Life of Al. H. Stephens, p. 239.

solution of the problem. The 7th of March speech was a programme, and not merely the personal programme of Webster, but the programme of those who still wished to keep house with the wisdom of the period of development whose end had now been reached. And the decisive point in the programme was that it declared a solution of the problem unnecessary and impossible at the very moment when the inevitableness of a solution of some kind had been proved to a demonstration.[1] This, however, did not give the radicals the right, as they now and afterwards still more insultingly did, to count the conservatives with the goats, of whom it is said: Depart from me ye unclean, I know ye not. No more in politics than in civil life is it true that convictions, motives, or actions are always either black or white. Webster had not become a knave and a traitor who deliberately sought to buy the mess of pottage of the Presidency at the price of the weal of the Union. The hope of winning this prize made him reckon less closely than he otherwise would have done with his conscience, his better convictions, and his honor; but he did not cease at the brink of the grave

[1] On this decisive point, Seward's views met those of the southern radicals. He says: "It will appear that the question of dissolving the Union is a complex question; that it embraces the fearful issue whether the Union shall stand, and slavery, under the steady, peaceful action of moral, social, and political causes, be removed by gradual, voluntary effort, and with compensation, or whether the Union shall be dissolved, and civil wars ensue, bringing on violent but complete and immediate emancipation. We are now arrived at that stage of our national progress when that crisis can be foreseen, when we must foresee it. It is directly before us. Its shadow is upon us. It darkens the legislative halls, the temples of worship, and the home and the hearth. Every question, political, civil, or ecclesiastical, however foreign to the subject of slavery, brings up slavery as an incident, and the incident supplants the principal question. We hear of nothing but slavery, and we can talk of nothing but slavery." Works, I., p. 86.

to be a patriot, and it had not been a mere lying rhetorical phrase when he had begun with the words: "I wish to speak to-day, not as a Massachusetts man, nor as a northern man, but as an American." Among the conservatives were many who in purity and firmness of character stood far above Webster and who yet went far beyond him in subserviency to the slavocracy. With him they said: "There will be no secession! Gentlemen are not serious when they talk of secession"; but without being conscious of the slightest inconsistency, they also said with him: "I hear with distress and anguish the word 'secession,'" and patriotic distress and patriotic anguish unmanned their intellects and their wills. Their policy glided on a sharply inclined plane towards an abyss, but, if not always solely, it was, nevertheless, chiefly their patriotism that impelled them to this policy. As little as the barometer makes the weather so little was Webster's speech the cause that the four years' contest resulted in the compromise of 1850. It was only the most noteworthy announcement of the fact that an influential minority of the northern Whigs was ready to allow Clay to save the Union in his own fashion.

Toombs and Stephens had thought that Seward had already as good as succeeded in transforming the Whigs of the north into an anti-slavery party; the votes of the House of the 4th of February, and the speech of Webster showed that the slavery question had split the Whigs of the north. The ignoring of this question by the last national convention of the Whigs had not been able to prevent this. The next question was whether this breach could be ignored, or whether, whatever the politicians might wish and decide, it would continue to widen until the dissolution of the party had become an accomplished fact, and thereby the slavery question in and of itself be-

came the basis of the construction of new parties. For him who judged the matter without prejudice, Seward's speech of the 11th of March[1] could not but remove all doubt as to what would be the answer to this question.

So little had Seward taken to heart Foote's warning to spare his reputation, that he now roundly declared himself opposed to all compromises. If he had done this in the spirit of the abolitionists, it would not have been of any special significance. Giddings, for example, had often made similar declarations and even the "fire eaters" had accustomed themselves to listen to them without raising a tumult and reaching for their revolvers. Men who regarded the morals of the decalogue or the postulates of the law of nature as absolutely binding in politics, could not adopt any other standpoint, but the south might rest secure that all deductions made from this standpoint would by the great majority of the people be referred to the chapter on "Slavery in Abstracto." But Seward, in making this declaration, as in all his previous action, was a practical politician—one who reckons with men and things as they actually are. Such legislative compromises, he thought, bind the hands for the future ere it can yet be foreseen what the weal of the state in the future may require. It was, therefore, necessary to rest content with the legitimate task of the legislator, to do justice to the requirements of the present, and a consideration of these requirements discovered no ground for making to slavery the concessions contained in the various compromises proposed.[2]

[1] Works, I., pp. 51–93.

[2] "*I am opposed to any such compromise, in any and all the forms in which it has been proposed;* because, while admitting the purity and the patriotism of all from whom it is my misfortune to differ, I think all legislative compromises, which are not absolutely necessary, radically wrong and essentially vicious. They involve the surrender of the

This cold reasoning announced a complete breach with the policy hitherto pursued by all the national parties. Hitherto all efforts had been directed to doing away with the slavery question altogether by coming to agreements on single points which were to satisfy both parties for all eternity. But neither was this result attained nor could new points of difference be prevented from arising from the progress of events. Seward now demanded that this question, like all other legislative problems, should be dealt with according as the emergencies arose. It was evident enough what must be the result of this innovation for the south. If the bargaining ceased and every concrete question was decided on its own merits, and solely by considerations directly concerning it, the north could never again have any cause for concessions to the south. As long, therefore, as the south was not resolved on secession and able to carry it out, it must necessarily exert all its powers for the maintenance of the compromise policy, however loudly and however violently the radicals might abjure all compromises. It was clear, however, that this policy would be liable in the course of time to find many friends among those who had never united with the abolitionists and who honestly wished to give the south its rights.

exercise of judgment and conscience on distinct and separate questions, at distinct and separate times, with the indispensable advantages it affords for ascertaining truth. They involve a relinquishment of the right to reconsider in future the decisions of the present, on questions prematurely anticipated. And they are acts of usurpation as to future questions of the province of future legislators. Sir, it seems to me as if slavery had laid its paralyzing hand upon myself, and the blood were coursing less freely than its wont through my veins, when I endeavor to suppose that such a compromise has been effected, and that my utterance forever is arrested upon all the great questions—social, moral and political—arising out of a subject so important, and as yet so incomprehensible."

Its rights, but no more. If Toombs cried triumphantly: it so stands in the bond, in the north also the number of those was increasing who refused any longer to hear of a "liberal" policy towards the slavocracy, but who simply asked what was in the bond. Seward did not confine himself to an argument of political expediency. This is the speech in which he pointed out the existence of a "higher law," a fact which alone would have sufficed to engrave his name forever on the tablets of American history. His opponents perverted the words in his mouth, and pretended that he had appealed from the constitution to a higher law, while in reality he had affirmed the perfect conformity of the former with the latter.[1] He called the legislators the stewards of God, and declared it their duty to make the welfare of the people the compass by which the ship of state was to be steered. Now the abolitionists had long since, and much more unconditionally, proclaimed the principle of a higher law, and no one would dispute that the welfare of the people is the task of legislation. At first sight, therefore, the tremendous effect on both camps of this expression appears very surprising. The really new and significant thing was, that a practical politician, who was one of the most influential leaders of one of the national parties, should take just this way of calling to mind that the constitution was only a means to an end, and should make the demand that, with regard to slavery, too, the logical conclusions from this fact should be drawn to their full extent by legislation. It cannot be denied that the "higher law" was often looked upon as a passport, on showing which all bars interposed by the constitution had to give way; but Seward conceived it only as the rule which had to be followed

[1] Pp. 74, 75.

in the interpretation of the constitution, and in the effectuation of its intentions in particular instances; and this was amply sufficient to block the way of the slavocracy everywhere. He did not claim the right to put the constitution aside whenever it stood in the way of the accomplishment of its own objects, by denying principles whose universal recognition was, by the laws of the moral order of the universe, an absolute prerequisite of the welfare of the people. He only pointed out that the constitution was a dead letter, in so far as the consciousness of the people held it inconsistent with the higher law, and he showed that this fact could not with impunity be overlooked by legislators. The execution of such facts, he said, with reference to the obligation to deliver fugitive slaves, cannot be enforced by arms, "because there is no public conscience to sustain them. I know that there are laws of various sorts which regulate the conduct of men. There are constitutions and statutes, codes mercantile and codes civil; but when we are legislating for states, especially when we are founding states, all these laws must be brought to the standard of the laws of God, and must be tried by that standard, and must stand or fall by it."

If Webster's speech had made those indignant who would hear of no new concessions on the part of the north, Seward's speech irritated at least in equal measure those who stood on the other side. Even in the north, and in his own state, the press spoke of him as if he were a demagogue convicted of high treason, unless it was to be assumed from pity that, on account of the diminutive size of his brain, he was not to be counted among responsible beings.[2] But why all this excitement and rage?

[2] See, for example, an article of the Democratic Review for May, 1850, p. 393. The following sentences may serve as specimens of the style: "This singular example of the inextricable caprices of fortune,

Had not Calhoun been saying over and over again for years, and had he not just now repeated, that the complete suppression of the abolitionist agitation was the *conditio sine qua non* of the south's remaining in the Union, because abolitionism rested on a religious basis, and declared slavery a sin? Was not this, though with reversed application, the doctrine of a higher law, which made the constitution a dead letter where a contradiction obtained between the two? Had not for many years the entire educated portion of the southern population followed with intense interest the contest on the "Bible argument"—a contest carried on with unflagging zeal by the theologians, spiritual and lay? How anxious the southern gentlemen were a few weeks later to spread a pamphlet, in which the highly esteemed New England professor, Stuart, broke a lance in their behalf on the "Bible argument," and how readily Webster promised them his support.[1] The last thing that most other Christian civilized nations would have thought of in the treatment of such a question would have been to ask what "Moses and the prophets" thought and taught on

we take to be one of the most dangerous of the more diminutive race of insects that ever buzzed about in a tainted political atmosphere; for he is held in such utter contempt by all honest men that no notice is taken of him until his sting is felt. He is barely qualified to play second fiddle in a concert of third-rate demagogues. * * * The mud had lately been stirred at the very bottom of the pool; and he who went down a mutilated tadpole, has come up a full-grown bull-frog. * * * Since then (his entry in the Senate), his only public exploit has been a speech, of which we shall say nothing, except that it would disgrace any man—but himself. The reader, we hope, will pardon us for thus turning aside a moment to do justice to a very small man—so small that his smallness is unspeakably inexpressible—and who, by no posibility, can ever become great in any other sense than that of being stupendously contemptible."

[1] See Webster's letters of the 3d of June, and 10th of August, 1850, to Professor Stuart. Webster's Priv. Corresp., II., pp. 370, 383.

the subject. The Americans, however, with their faith in the Scriptures, who, with childish ingenuous piety, took the word as they found it, and who bowed almost as unconditionally to the authority of the old testament as to that of the new, saw in the Bible the code of the "higher law" in its most authoritative form. The "Bible argument," therefore, not only seemed important to them, but its decision was final.[1] There were many abolitionists to whom slavery was, and remained, the "sum of all villany," whatever the Bible might teach about it; but even the most fanatical partisans of slavery admitted that it must and would fall if it could be proved from the Bible that it was against the will of God.[2] Of course,

[1] "The Bible, in our country, is the standard. Its decisions are final. And there is not a judge upon the bench, nor a jury in the land, who will decide in opposition to what are the generally received teachings of the Bible. If these teachings, or interpretations, be wrong, they will decide with them, because they understand them to be the teachings of the Bible." J. G. Fee, An Anti-Slavery Manual, p. VIII.

[2] See, for example, a very interesting letter of a southerner from Wellington, near Athens, Ga., January, 1848, to Th. Parker. There *inter alia* we read: "You negrophilists may write and publish for ever in your style, and with your matter, without striking the southern heart or enlisting its sympathies. Until—and only until you prove by the Bible collectively—for it is a collection of theological truths in its own stability, unschismatic—that God did not allow slaves through Moses' prophetic writings to the Israelites, and that Jesus Christ, instead of being silent, and St. Paul coherent, had been of your own conclusion, that 'it was a sin without an excuse.' * * * We cannot think the God of Moses less the true, pure Deity than Jesus Christ; nor that he in one age permitted and regulated a domestic servitude only to be found to have altered his fixed providence in another! God (you infidel!) is always stable in his purposes. * * * Prove first from the Bible alone, and not by your egregious statistics and innuendoes, that slavery is wrong, without also making God wrong or inconsistent, and then the whole structure of bondage would fall to the ground. Otherwise, for ever hold your peace" White, Life and Correspondence of Th. Parker. II., p. 79.

this proof could never be presented in such a way as to force a recognition of its validity from those who thought otherwise. But this, at least, was proved by the strife about the "Bible argument," and the attitude of the south relative thereto, that the south acknowledged the existence of a "higher law," and admitted that not the constitution but that law would determine the issue in case a contradiction obtained between the two. But whatever men recognize as an ethical principle operates as such among them. The north and south might, therefore, never be able to come to an understanding as to the requirements of the higher law, and as far as the actual development of affairs was concerned, the real question was: how far are Seward's views of the higher law the convictions of the north, and to what extent will they be so in the future?

Calhoun had answered this question by pointing out that all the conditions had become more favorable for the growth of the abolitionist spirit. The entire south admitted the fact, but only a small portion joined with De Bow in the conclusion he drew from it that Webster had undertaken an impossibility.[1] If De Bow was right, then evidently Seward's assertion also was well founded that all measures for the strengthening of slavery tended to prepare for it a violent end.[2]

[1] "None can mistake the anti-slavery growth—it has no resting place. The cry is onward! When was there ever a 'step backward' in its history? It will sweep over Mr. Webster as the whirlwind sweeps over the reed." Commercial Review, I. Ser., Vol. IX., p. 122.

[2] "I feel assured that slavery must give way, and will give way, to the salutary instructions of economy, and to the ripening influences of humanity; that emancipation is inevitable, and is near; that it may be hastened or hindered; and that whether it shall be peaceful or violent, depends upon the question whether it be hastened or hindered; that all measures which fortify slavery or extend it, tend to the consummation of violence; all that check its extension and abate its strength, tend to its peaceful extirpation."

If De Bow had had in view the immediate future, he proved a false prophet. Webster was able to announce to his friends that the copies of his speech which had been distributed and sold were counted by hundreds of thousands and still from the south and west and some portions of the middle states came letters of recognition, and addresses, and requests for copies of the speech, without number.[1] Nevertheless, a vexatious "but yet" came limping after. It is true his personal friends, and the alarmed mercantile circles of Massachusetts and New York were not wanting in declarations of concurrence, but the opposing tendency, nevertheless, preponderated so far in the north eastern states that their representation, as he expressed it, felt themselves, now as before, bound to deliver daily speeches against slavery. Still, on the 28th of March, he was able to write to Harvey: "Things look well here and improve every hour.[2] If Webster could write that, it was perhaps a little too hard that Averett, of Virginia, should say on the same day in the House of Representatives: The history of the civilized world can show no more cruel, depraved and heartless war than that which the northern population is now carrying on against the southern.[3]

There was still, it is true, much resistance and many difficulties to be overcome. The President who, as early as the 13th of February, had transmitted to Congress the constitution of California, held firmly to his plan. Not only, as was inevitable, was there no agreement between the President and the Democratic majority of Congress, but the administration had as good as no common feeling with its own party. Clay knew of no prominent member of Congress who maintained confidential relations with

[1] Priv. Corresp., II., pp. 364–366.
[2] Priv. Corresp. II., p. 363.
[3] Congr. Globe, 31st Congr., 1st Sess., Append., p. 394.

the White House.[1] Morehead announced to Crittenden, on the 30th of March, that the cabinet had no support from any quarter. Each secretary, of course, had some friends, but taken as a whole, no one was well disposed to it, and the members themselves did not regard each other with very friendly eyes. He mentions that there is talk of a complete reconstruction of the cabinet, but as he assigns the first place in the new cabinet that is to be formed to Winthrop, Webster, or Crittenden, it may well be assumed that the gentlemen reckoned more with their own wishes than with Taylor's purposes.[2] Stephens wrote, as late as April 15th, to his brother Linton, that Taylor, influenced by Preston, was unconditionally opposed to the compromise plan before Congress.[3] And Morehead also reported that Clay, who now played the chief rôle, and the President

[1] He writes, March 16, to his son James: "I have never before seen such an administration. There is very little coöperation or concord between the two ends of the avenue. There is not, I believe, a prominent Whig in either House that has any confidential intercourse with the executive. Mr. Seward, it is said, had; but his late abolition speech has, I presume, cut him off from any such intercourse, as it has eradicated the respect of almost all men for him." Priv. Corresp., p. 604.

[2] Coleman, Life of J. J. Crittenden, I., p. 362.

[3] "Mr. Clay, who came here a Wilmot-proviso man, seeing the state of feeling, seized upon the occasion and brought forward his compromise; Webster followed, and twenty northern Whigs, perhaps forty, in the House, were ready to follow, and settle the whole question. But P—, (jealous of Clay, and not willing that his movement should succeed—that is, that territorial bills without the proviso should pass, which would always be as good as Clay's compromise,) set his head against it. I worked with him, hoping he would yield, but he set all his powers against it, and has got General Taylor dead against it; and, if we carry General McClernand's bill we shall do it over and against the whole power of the government, and the Whig party will be defunct." Waddell, Biographical Sketch of Linton Stephens, pp. 100, 101. See McClernand's Compromise Bill, Congr. Globe, 31st Congr., 1st. Sess., pp. 628, 629.

had been brought into a very irritated tone of feeling towards each other by tale-bearers and that the breach between them was widening daily. The friends of a compromise, therefore, thought it not impossible that the President's attitude would render all their efforts vain.

Wholly apart from the separate stipulations of the attempted compromise, the preliminary question — the attempting a general clearing of accounts at all — met in Congress with very obstinate opposition. On the 25th of March, Douglas, of the committee on territorial affairs, had introduced a bill for the admission of California as a state with the constitution it had itself adopted. Clay and Cass admitted that in both Houses, a majority including themselves, was in favor of the admission, and yet they opposed with all their strength the request that the Senate would take the bill under consideration and decide upon it. The pronounced opponents of slavery, and in union with them Douglas and Benton, came forward in favor of the bill with equal energy. Benton, in particular, carried on the contest with a passionate energy that merits the highest recognition, because he was perfectly well aware that every word that passed his lips caused the south and the ruling circles in his own state to turn away from him more and more, as from a traitor. His speeches and those of his associates were developments of the position, that all considerations of fair dealing bound the Congress to grant immediate admission, now that California had helped itself to a state organization, because Congress had delayed giving it a territorial organization until it had threatened to sink into total anarchy, and that no tenable arguments drawn from the nature of the case could be adduced against the admission.

As a matter of fact, plenty of arguments were brought forward against this, and the more decided a partisan of

slavery the speaker was, the greater their number and the higher the importance attributed to them. The most general and the weightiest objection was that California had had no right to organize as a state, without the authorization of Congress. Even Calhoun, who, on the 31st of March, had succumbed to his sufferings, had blamed the action of the Californians as "revolutionary and rebellious in its character, anarchical in its tendency, and calculated to lead to the most dangerous consequences."[1] This was strong and harsh language, if we reflect that eight states had already given themselves state constitutions, without the previous permission of Congress.[2] To be sure, the cases were not quite analogous, chiefly because these had been for the most part organized territories. But the opinion which the attorney-general, B. F. Butler, had given in the case of Arkansas, Sept. 21, 1835,[3] covered this case completely. The action of the Californians was extra-legal but not illegal.[4] They had just as good right to petition

[1] Works, IV., p. 565.

[2] Vermont, 1791, Kentucky, 1792, Tennessee, 1796, Maine, 1820, Arkansas, 1836, Michigan, 1837, Florida, 1845, Iowa, 1846.

[3] Opinions of the attorney-general, II., pp. 726–733.

[4] The doctrine which the southern radicals now maintained with regard to this preliminary permission to draw up a state constitution [of which the constitution said absolutely nothing] is an interesting commentary upon their theory of the "strict construction" of the constitution. While Seddon, on the one hand, declared the permission absolutely indispensable, he maintained on the other that the permission once granted was absolutely binding on Congress. "Under the authority, and with the assent of Congress, the people of a previously constituted territory [Missouri] had met in convention, adopted a constitution, and formed a state. If Congress refused to admit her, she would no longer be a territory of the Union, but an independent state out of it. If Congress imposed conditions, as was at one time designed, which her people were resolved not to receive, she was free to refuse them, and to prefer independence out of the Union to entrance on such terms. Congress was constrained to elect between her total loss and separate sovereignty, and her admission on terms she would accept.

for admission as a state as for anything else. Since it was provided, neither by the constitution nor by any law, that all states to be admitted should have previously passed through the puppet stage of organized territory, Congress was perfectly at liberty to grant this request, but would, of course, be guilty of no violation of legal rights if it refused it. The unwillingness or the incapacity of Congress to fulfill its obligations to California, however, made the latter's extra-legal action not only excusable but meritorious, and gave it a fair claim for the granting of its request which it was necessary to recognize, unless other cogent objections could be brought against it. But everything else that the opposition was able to bring forward was very feeble.

The President's part in the matter was confined to one piece of advice and a well-wishing support of its execution when it was accepted. He had, perhaps, rendered the slaveholders a very poor service thereby, but he could not be taxed with violation of the laws, and California owed him gratitude. The charge that he had exercised a pressure to carry through the prohibition of slavery, was simply absurd. The great slaveholder of Louisiana and

Rightfully, Congress could do no more. It could not remand her into a territorial condition, for it had given assent to, and authorized the formation of a state government." Congr. Globe, 31st Congr., 1st Sess., Append., p. 76. We have already met with the assertion that the federal government could not, in any circumstances and in any manner, abandon to a foreign power the minutest portion of the federal domain. Now we learn that the entire territorial domain, piece by piece, might be conjured away from the United States. As soon as a territory had been granted permission to give itself a state constitution, it could organize itself out of the Union by inserting with that object some enormities in its constitution, which it would be absolutely impossible for Congress to approve of. It matters not that it could be foreseen that no territory would ever do this. The bare possibility suffices to show the absurdity of the doctrine.

his emissary, the slaveholder King, of Georgia, had not become abolitionists.[1]

Scarcely better stood the objection that California might withhold from the United States the public lands. This could easily be provided against, as was afterwards done.

The magnitude of the state, it is true, might have given rise to scruples admitting of discussion, although Texas was much larger, had it not been that, unlike those of the other states, the boundaries of California had been fixed by nature. Nevertheless, the exceptions which the south took to them were no mere pretexts, though this was true solely because the south still held to the hope that the part lying south of the Missouri line might yet be formed into a slave state. This hope, however, could not be realized by delaying the admission of California a few weeks or months. It was, therefore, indeed, a reason for the radicals to work for the rejection of the request for admission, but there was no way in which the moderate party could gain anything for their objects by means of objections drawn from the boundary lines. They had absolutely nothing on which to rest their opposition except the greater ease with which an understanding between the north and south could be brought about by uniting the question of admission with the other contested questions. This sounded very fine, and many an honest Unionist might deem absolutely convincing Clay's question, whether California ought not to be proud and happy, by means of just a little patience, to contribute essentially to the adjustment of the unhappy dissension? But on looking closer, the dullest eye could not but see the serpent under the roses. In the general settlement of accounts, the admission of California was to count among the most essential items in the "credit" of the north, to

[1] See Congr. Globe, 31st Congr., 1st Sess., Append., p. 597.

balance which various concessions to the slavocracy would have to be entered in its "debit." But if no sound arguments based on facts could be adduced against the admission, while fair dealing and the vital interests of the district imperatively required it—and such was the situation in the opinion of Clay, Cass and their associates—then the admission was no concession at all on the part of the south, but only the renunciation of the continuance of an unjustifiable, factious, opposition. The constitution spoke only of the admission of new states into the Union, and knew nothing of the assignment of new states to the northern or southern section. Therefore, although California had prohibited slavery the south granted nothing to the north by its admission. But the requirements made of the north were, in the fullest sense of the word, concessions, since not only did it oppose them from sectional interests, but its moral convictions revolted against them and it was honestly convinced that they were harmful to the weal of the Union. California, which had been disgracefully[1] neglected by the south in consequence of its sectional opposition, was now, to use Butler's figure, to serve the south as a strong vessel to tow into the harbor in a way to suit the south the fragile crafts, New Mexico and Utah.

It was, therefore, a new great victory for the slavocracy,

[1] The expression is not too harsh, but too mild. I should have written: California which had been shamefully misused by the south. Seddon complained: "Our power of coercing settlement, by resisting the establishment of civil government in California, is effectually cut off. That has been done in despite of us through the action of the Executive. A great means of compelling the attention of the Union to our claims is thus lost to us. A most potent lever for satisfactory adjustment, which at the past session of Congress moved so many to the support of Walker's amendment, has been snatched from our hands. It may be asked, have we not a similar one in the ability to refuse admission? By no means so satisfactory or effective a one because they enjoy a civil government." Ibid., p. 77.

when, on the 11th of April, by a vote of 28 to 26 the motion was rejected to strike out the admission of California from the list of the questions with which the compromise committee, moved by Foote, was to occupy itself. On the 18th of April, the appointment of the committee was determined upon by a vote of 30 to 22. According to Foote's own testimony, this result was due to Webster's appearance in support of the motion.[1] On the next day they proceeded to the choice of the committee. The chairman was to be chosen first and separately. Of the thirty votes given, twenty-seven fell to Clay, but they lacked one vote of a quorum. The choice of the remaining members followed by balloting upon a list laid by Foote upon the desks of the Senators.[2] The committee naturally conformed to the ideas of the originator of the list. Not only did the south have seven members against six from the north, but of these six four were distinguished only by the degree of their subserviency to the south.[3]

Some days before, Cass had bitterly complained that the session was now five months advanced, and that not the least thing had been accomplished. The word would now have required detailed explanation to be justified. It is true, that no bill had as yet been passed on any one of the contested questions, and the war of words might yet be continued for some months; but enough had been effected to make it certain that, before the end of the session that would be done for which both north and south would sometime have to pay a fearful penalty in money and blood.

[1] Hist. of the Rebellion, pp. 124–126.

[2] Ibid., p. 127.

[3] The committee consisted of Clay, Cass, Dickinson, Bright of Indiana, Webster, Phelps of Vermont, Cooper of Pennsylvania, King of Alabama, Mason of Virginia, Downs of Louisiana, Mangum of North Carolina, Bell of Tennessee, and Berrien of Georgia.

CHAPTER XVI

THE COMPROMISE OF 1850.

The slavocracy, partly in a somewhat disguised form, and partly in direct terms, had pronounced Taylor an apostate and a usurper, because he had spoiled their game by his attempt, from patriotic motives to prepare the way for Congress.[1] And now, too, the President was by no means sleeping in his easy chair, as the Democratic Re-

[1] Thus, for example, Seddon said on the 23d of January: "Believing, as I sincerely do, the action of the present executive, in relation to California, to involve grave violations of the constitution, gross usurpation of powers, and to be most insidious and fatal to the rights of my section in particular," etc. Congr. Globe, 31st Congr., 1st Sess., App. p. 74. T. H. Haymond, of Virginia, (!) replied to this on the 21st of May: "Sir, if the people of California, in forming their constitution, had provided for the introduction of slavery within their borders, quite a different state of things would have manifested itself here. Those gentlemen who represent on this floor the north only, would now be occupying the position of southern gentlemen who are supposed to represent the south only; and, sir, none of my southern friends would be found resisting the admission of California into the Union; nor do I believe they would have censured the President in such unmeasured terms for merely suggesting to the people of California the propriety of adopting measures to form a constitution with a view of asking to be admitted into the Union as one of the states of this confederacy. And while on this subject, I will notice some of the remarks of my colleague from the Richmond district (Seddon). He says, in his speech, delivered on this floor in the early part of this discussion, when speaking of the action of the executive, 'they exhibit, as I contend, Mr. Speaker, gross usurpation on the part of the executive of both judicial and legislative powers.' * * * Strange doctrine to be advanced by so able and distinguished a lawyer, that a mere suggestion to the people, made by the way of giving advice,

view a few weeks later believed,[1] but that he was trying to influence the action of Congress could not be maintained even by those who affected to believe that the prohibition of slavery in California was attributable to the pressure exercised by the executive. There was nothing more heard of a change in the cabinet,[2] and Toombs complained that the President, well-meaning, but on account of his inexperience utterly devoid of judgment, was falling more and more into bad hands, and becoming wholly alienated from his original friends. But he added that the administration had not force enough to exert either a helpful or harmful influence.[3] The Senate committee, therefore, which was to write the recipe for the radical cure of the Union, might proceed to the solution of its great problem without fear of interruption. The

should be construed and declared to be an exercise of legislative power. If this is true, * * * then, sir, all our presidents have, to a greater or less extent, been usurpers." Ibid., p. 598.

[1] "Nero fiddled while Rome was burning; and the President may laugh and grow fat in his easy chair while the republic is rocking with earthquakes. If it should chance to be swallowed up, or riven to atoms, it is nothing to him; he has washed his hands of the dirty business of governing, and you must look to the agents, not to the principal. He is fast asleep in his easy chair, and it is a pity to disturb him. And who has a better right to a comfortable nap than the President? He told the people honestly that he was incapable of steering the ship; he has chosen his pilots, and if they run her on the rocks, the underwriters are responsible." The Democratic Review, June, 1850, p. 486.

[2] Mr. Clay to Th. B. Stevenson, April 25, 1850. Colton, The Last Seven Years of the Life of H. Clay, p. 499.

[3] The secretaries belonging to the north, he affirmed, were hateful, even to the northern Whigs. Clayton, he calls "a dead body," and Johnson, "honorable and clever, but without wisdom." Of Preston, he thinks like Stephens; Crawford only he allows to pass, but thinks his colleagues will soon make the latter's remaining in the cabinet irreconcilable with his honor. Coleman, Life of J. J. Crittenden, I., p. 366

result would have to show whether these gentlemen and their colleagues in the capitol were really so richly blessed with wisdom as to give them a right to speak with almost contemptuous pity of the well-meaning incapacity of the President.

On the 8th of May Clay made his report in the name of the committee.[1] The first of the three bills which he introduced was primarily distinguished by its excessive length. It began with the admission of California into the Union as a state under the constitution it had sent in. Then followed the organization of Utah as a territory, and on this, that of New Mexico. The avowed object of uniting the three questions in one bill was, that the new state should serve as a tow-boat for the two territories. The fear that they would be unable alone to run safely into the harbor, arose naturally from the slavery question. The provisions of the bill on this point were identical for both territories. Nothing was said on this subject, except that the territorial legislature could enact no law concerning slavery. In the explanatory text, the north was offered the consolation that the Wilmot proviso would be a mere obstruction, because the introduction of slavery was in the highest degree improbable; and to the south Clay said, on the 21st of May, that the bill had adopted a principle for which the south had always contended. To this, Soulé, of Louisiana, responded: "We all know that we do not understand this 10th section alike. We know that its import, in different minds, amounts to absolute antagonism. * * * If we are not deceiving one another, we are deceiving our constituents." When, on the 6th of June, Baldwin, of Connecticut, made a similar objection, Clay replied on the next day, that they were obliged to leave it altogether an open question what

[1] Congr., Globe, 31st Congr., 1st Sess., pp. 944–948.

the bill provided concerning slavery, because it was impossible for them to agree as to what the law regarding slavery in the territories was, or rather was to be. "When the question comes before the Supreme Court of the United States, that tribunal alone will declare what the law is." Douglas, however, thought all compromise-making love's labor lost, as long as Congress allowed itself even to know of the existence of a slavery question in the territories. His *ceterum censeo*, therefore, still was, that non-intervention and squatter sovereignty had to be identical.[1] The people were thus divided, not only into two, but into at least four parties, on the question of what was to be understood by the principle of non-intervention,[2] by means of which the compromise committee

[1] "I do not believe, sir, that the Senate can agree upon any principle by which a bill can pass giving governments to the territories in which the word 'slavery' is mentioned. If you prohibit, if you establish, if you recognize, if you touch the question of slavery, your bill cannot, in my opinion, pass this body. But the bill that you can pass is one that is open upon these questions—that says nothing upon the subject, but leaves the people to do as they please, and shape their institutions according to what they may conceive to be their interests both for the present and the future." Ibid., p. 1116.

[2] 1—The Dickinson-Cass-Douglas men, with squatter sovereignty; 2—the Clay-Clayton compromisers, who left the decision to the Supreme Court; 3—the southern radicals, who held that the organized territories had a right to decide the question only after the slaveholders had been allowed sufficient time for immigration; 4—the southern ultras—Calhoun—according to whom Congress, the Supreme Court, territorial legislatures, and the population of the territories, were equally incompetent in the question, and all the territories stood open to the slaveholders until as states they gave their sovereign decision. To the third group belonged Seddon, for example. He declared: "Properly understood, it (non-intervention) could only contemplate that the citizens of all the states of the Union should be equally free to enter and settle with their property on the common territories of the Union—slaveholders and non-slaveholders to be on precisely the same footing of equality and right, and to be equally protected by the law and policy (!) of the government; that proper territorial govern-

wished to establish lasting peace and quiet in the land. Clay's recommendations of this hide-and-seek policy would have found a readier hearing if some experience with this policy had not already been had. Seddon, of Virginia, attributed the present condition of the country, in a great part, to the overwise policy of lying themselves out of difficulties by equivocation, and affirmed that the Democratic party was already almost broken asunder thereby.[1] And Underwood, of Kentucky, drew from this the conclusion that the doctrine of the incompetence of Congress with regard to slavery in the territories, was a misfortune for the south, because it afforded the northern politicians an opportunity of pursuing the goal of their secret ambition under a mask.[2] However the remainder of the

ments being organized, reasonable periods should be allowed for such settlements, and then free and full opportunity of electing and determining their domestic institutions should be allowed to the people of each territory." Ibid., App. p. 78. Thus, according to this doctrine, in opposition to that represented by the first group, the population of a territory had no right of deciding the question of slavery for itself, but the right of making its election was to be given it by Congress when Congress thought the proper time had come; and, in fixing this time, Congress was to be determined by the duty of serving freedom and slavery equally. A policy which from duty continually moved in two different directions at the same time, had at least the merit of being something new under the sun.

[1] "I believe the present anti-slavery agitation owes much of its extent and intensity to the mistaken policy of adopting delusive phrases and positions, susceptible of double construction, with the vain purpose of uniting in party action the opposing sections of the Union." Even Virginia would certainly have not voted for Cass at the last presidential election, if it had been clearly understood then what he meant by non-intervention. "The party is shaken, well-nigh rent asunder by the legitimate result of such contrariant and antagonistic opinions. The only earthly chance of ever reuniting and consolidating it again, will be forever to discard such miserable shifts and deceptions." Ibid., p. 1470.

[2] "Mr. President, the doctrine has been asserted on this floor that Congress has no power to legislate upon the subject of slavery within

recipe regarded in itself might be judged, it could not in any event do away with the evil effects of the elements already named, since it dealt with an altogether different danger. The two territories were attached to California, and on the territories in turn depended the controversy with Texas. The committee justified this by saying that, in consequence of the claims of Texas, the boundaries of Mexico could not be fixed *ex parte* by Congress. However this might be, it only lent additional point to Benton's sarcastic remark, that the committee was facilitating the effectuation of a compromise after the manner of certain drivers, who put a heavy load on the back of the nag to make it draw the heavy wagon easier.

The question whether the boundary claims of Texas were well founded, the committee declared, it had left wholly untouched. The bill proposed to Texas that it should give its assent to the establishment of certain boundaries, and offered it millions to pay the debts for which it had once pledged its revenues, with authority to spend the rest as seemed best to it. Benton, who was better informed on the matters in question than any other politician of the United States, asserted that the boundary lines proposed by the committee cut off some 70,000 square miles of what had for centuries been New Mexico, and by transferring it to Texas converted it from free into slave territory.[1] Clay himself said, on the 15th of May:

the territories. I conceive that to be a great error, a most unfortunate error, to the southern portion of the people of the United States. Its tendency is to relieve northern members of responsibility, to save their popularity, and to enable them to escape voting upon measures which would necessarily subject them, under the sectional excitements unfortunately prevailing, to severe animadversions and condemnation in different sections of our extensive country. I am not sure that this doctrine is not the invention of presidential aspirants, who wish to sail into port under the non-committal flag." Ibid., App. p. 969.

[1] Thirty Years' View, II., p. 756.

"We propose to buy our peace with Texas," and he had good grounds for adding, that the committee had made a "liberal" offer. Whether such a transaction was compatible with the honor of the United States, whether it weighed out right and fair dealing to Texas and New Mexico in equal scales, whether it was for the interest of the Union, and, more particularly of the free states—these were quite different questions. The latter might fairly be surprised to hear, on the 22nd of July, from Clay's mouth that they received "almost everything," "and the south nothing but her honor." It would, indeed, have been very strange if a committee composed in this fashion had acted with such unfairness towards the south. Yulee, of Florida, it is true, declared that his constituents would regard the entire project, not merely as a mockery, but as an insult; but in spite of this it was not easy to convince the free states that the second bill, rendering more severe the law for the delivery of fugitive slaves, was a concession made to them. Nothing was offered them but the meagre morsel of the third bill, which prohibited the slave trade in the District of Columbia. A meagre morsel, because the buying and selling of slaves was by no means prohibited in the District, but the bill only forbade professional slave dealers to use the federal capital any longer as a market and depot, and because the bill was nothing but a revival of an old law of Maryland which Congress had abolished.

That the propositions of the committee would leave all questions of law and right undecided, impose demands on the north and yet fail to content the south, was nothing more than had necessarily been expected, but, in spite of this, it could not fail to surprise and disappoint both parties, wholly apart from their wishes. The committee had, in truth, as Benton said, packed together in one bundle some half a dozen bills which had been before the Senate

for some months, after having more or less altered for the worse the greater part of them. Its entire wisdom consisted in the thought that a bundle could be safely thrown against a wind which would waft away the separate pieces. Benton, with his grim humor, baptized the bill the omnibus bill, and under this name it has taken its place in the history of the United States. In truth, a stranger company of fellow travelers was never started out by a legislative transportation company. The longer the Senate and public looked at the vehicle, the harder they found it to respect the Horatian precept *risum teneatis.* Even the guards wrangled more and more violently as time went on. The most unruly of all, however, were the Hotspurs of the south. Hale's explanation of this was that they hoped to get still more, because they had concluded from the attitude of the north that the latter thought it was buying peace very cheap, even on these conditions.[1]

If the north had really become "conservative" to this extent, this hope might easily be realized provided the Nashville convention only fulfilled the expectations which its originators had attached to it.

[1] "I will tell you what I think the secret of this opposition is. This bill has been proposed, and southern gentlemen have seen that the north have snapped at it so greedily that they are trying to get a little more. * * * I was asking the other day, in a friendly and half jocose manner, a southern friend of mine 'what would you be satisfied with.' 'Now,' says he, 'I'll be candid with you; if we can have California for slave territory, with all the rest of it, and then take Cuba, we would be satisfied for a little while, but not long.' Now I believe this man spoke more truth than joke when he said that; at all events there was a great deal of truth lurking in it. I admired the candor with which he told me that they would not be satisfied a great while even with that. * * * When you have drank the cup of conciliation and concession to the very dregs, they will not be satisfied long. Long! No, not at all. We have conceded, and conceded, and conceded, but concession only creates new demands." Congr. Globe, 31st Congr., 1st Sess., p. 1085.

This spectre, which had done the south good service with many a weak-nerved northern patriot, had been conjured up from Mississippi. The first impulse thereto had been given by a meeting, held at Jackson, on the 7th of May, 1849, which called upon the counties to elect delegates to a state convention to take under consideration the condition of the country, so threatening to the rights and interests of the south. This state convention issued in October, an "address to the southern states,"[1] in which it recommended the holding of a "popular convention" at Nashville on the first Monday in June, 1850, to take measures for the maintenance of the Union, by putting a stop to the encroachments of the north. Should the convention prove unable to effect this, the Legislatures were recommended to bring about the holding of conventions in their respective states, in which the people could act with the plenary powers of its sovereignty. And, as a last means of salvation, the prospect was held out of a general convention for the formation of an independent southern league.[2]

In several states, it was determined to comply with the request, but the project was, nevertheless, far from meeting with general approval. The *Wilmington* (N. C.)

[1] Congr. Globe, 31st Congr., 1st Sess., p. 578.

[2] "Beside and beyond a popular convention of the southern states, with the view and the hope of arresting the course of aggression, and, if not practicable, then to concentrate the south in will, understanding, and action, the convention of Mississippi suggested, as the possible ultimate resort, the call by the Legislatures of the assailed states, of still more solemn conventions—such as should be regularly elected by the people of those states—to deliberate, speak, and act, with all the sovereign power of the people. Should in the result, such conventions be called and meet, they may lead to a like regularly constituted convention of all the assailed states, to provide, in the last resort, for their separate welfare by the formation of a compact and a union, that will afford protection to their liberties and rights."

Chronicle said, that only a fourth of the southern papers expressly pronounced in favor of its execution.[1] In all Georgia only 3,722 people could be induced to take part in the election of delegates. In Nashville itself a county convention on the 6th of May resolved by an overwhelming majority to choose no delegates.[2] In Virginia the large towns pronounced against the convention,[3] and H. A. Wise's own county, who was chosen for delegate, had taken no part in his election. Alabama sent moderate men and in some places delegates were chosen at all only to thwart the plans of the extremists.

The convention assembled on the 3d of June. W. L. Sharkey, a distinguished Whig from Mississippi, and one of the authors of the "Address to the Southern States," was chosen president. In his opening speech, he emphasized the fact that the object of the convention was not the disruption but the preservation of the Union. The majority of the delegations from Virginia, Alabama and Tennessee desired that the action of the convention should really conform to this assurance. The representatives of South Carolina, Texas and Mississippi, on the other hand, wished the convention, without any palliating phrases, to pronounce in favor of a policy of open resistance unless the south obtained all its rights. In the resolutions,

[1] "We receive 60 papers published in the slaveholding states, extending from Maryland to Louisiana, and out of the 60 we cannot count up more than about 15, or one-fourth, which take decided ground for a southern convention. The rest are either strongly opposed to it, doubt as to its utility, or are silent on the subject."

[2] The *Independent*, May 16, 1850, p. 83.

[3] T. Haymond, of Virginia, declared in the House of Representatives, May 21: "Sir, the efforts to get up meetings to send delegates to the Nashville convention, has been almost an entire failure in Virginia. * * * Richmond, Petersburg, Norfolk, and the great county of Albemarle * * * have repudiated it." Congr. Globe, 31st Congr., 1st Sess., Append., p. 599.

which were drawn up by John A. Campbell, of Alabama, afterwards member of the Supreme Court, the views of the moderates prevailed. They made the north no compliments, and stood wholly on the high ground of sound doctrine with regard to the Wilmot proviso and all other heresies, but they nevertheless shrank from counselling the south to resistance, and expressed their firm confidence that Congress would find a remedy for the just grievances of the south. An address, however, was also issued, and in this the radicals held the pen.[1] It denounced the plans of a compromise now before Congress, expressly including the omnibus bill with its appendages. The motion to strike out this passage was voted down. This is not surprising, as the address expressed the conviction that even if the north should allow right and fair dealing to prevail in the future, the diversity of the interests of the two sections would in any case finally lead to a dissolution of the Union.

That the more radical elements became more and more preponderant in the course of the discussions appears sufficiently from the fact that the Tennessee delegation, which had originally favored the Clay compromise, finally decided for the promoting of the extension of the Missouri line.[2] Although Cass himself had said, as early as the

[1] Webster called it "a studied disunion argument." Works, V., p. 429.

[2] C. H. Williams, of Tennessee, said in the House of Representatives, Aug. 9: "The representatives of Tennessee, as I am credibly informed, having seen a letter from a member of the convention, were in favor unanimously of the compromise bill of the Senate. Yet, before they adjourned, they were unanimously for the Missouri compromise line. How was this radical change and sudden revolution effected? Let plain facts attest. Some of the representatives from Tennessee were telegraphed by members in this hall, and were informed that if the convention would agree upon the Senate compromise bill then before the Senate, that there was every prospect that it

13th of March that the sole result of the labors of Congress thus far was the certainty that neither this nor the Wilmot proviso could be carried through. But the whole history of the convention showed, nevertheless, that the south was anything but a unit, when there was a question of forming resolutions which would lead to deeds and which might really bring the Union into immediate danger. It, therefore, did not heighten the alarm in the free states but was rather looked upon as a proof that the northern Unionists might very properly have set about their task with calmer blood and more composed minds. Still, the single fact that such a convention could be held was further looked upon as a proof that some sort of an understanding must be quickly reached unless they were prepared to drift directly and with no tardy movement on to a catastrophe. Thus the result of the convention was that the hopes of the radicals of compelling appreciably greater concessions from the north had less prospect of fulfillment than before, but the bringing about of a compromise on the basis of Clay's propositions had become more probable.

would be passed by the Congress of the United States. The same representatives in the convention were informed that if the convention agreed upon the Missouri compromise line, that it could not and would not pass the Congress of the United States. With a full knowledge that its passage was hopeless, the Nashville convention, with great unanimity, agreed upon that line of adjustment, regardless of the fact that the Democratic party, no longer ago than the last Congress, repudiated and denounced that line of adjustment as unconstitutional and unjust. Why this political somersault? The Hon. Robert B. Rhett tells you in his Charleston speech. He says that in five days the Tennessee delegation wheeled into line. What line? The disunion line. How? By rejecting the Senate compromise bill and agreeing to the Missouri compromise line that they knew to be impracticable." Congr. Globe, 31st Congr., 1st Sess., Append. p. 1052. The address called the consent to the extension of the Missouri line "an extreme concession on the part of the south."

The speeches of the Senators and Representatives were, at any rate, still quite as lengthy and, for the most part, not less violent than before. But this afforded no measure of the situation. Far more characteristic of the real position of affairs was the fact that the Union rescuers now dealt their heaviest blows, not against the radicals of north or south, but against the administration. Clay distinctly affirmed that the compromise would long since have been concluded had it not been for the opposition of the President.[1] If he really believed this himself, he lived under the strangest illusions. This, at least, was true, that Taylor, whom the *Democratic Review* charged with sleeping in his easy chair, had been from the beginning much more wide awake than had suited the wishes of Texas, the southern radicals, and the Unionists, and that he would not hear of the omnibus bill.

On the last night of his presidency, Polk, as Thomas Ewing, his Secretary of the Interior, tells us, had sent an order to New Mexico to deliver the territory to Texas as soon as the latter should require it.[2] As soon as Taylor was informed of this he had the order at once recalled, and the officer in command of the federal troops instructed to defend the district no less against the Texans than against the Indians until the Supreme Court or Congress

"I now say, sir, to the honorable gentleman from Tennessee (Bell) and in the face of the country, that what he said this moment is in my mouth, and in the mouth of every member of Congress, that, if the President had either come out in support of the plan of the committee of thirteen, or been silent—if war had not been made upon it by all the influences of power, the measure would have passed both Houses without the slightest difficulty. That is the universal opinion." July 3rd. Congr. Globe, 31st Congr., 1st Sess., Append., p. 1093.

[2] Wilson, Rise and Fall of the Slave Power in America, II., p. 279. Senator Rusk, of Texas, confirms this. Congr. Globe, 31st Congr., 1st Sess., Append., p. 1099.

should have otherwise decided. Some prominent politicians of the south tried to induce him to return to Polk's decision, but they were curtly dismissed. When they asked him what he should do, if Texas invaded New Mexico with an armed force, he replied that he should exert all his constitutional and legal power to drive them out again; on which Toombs is said to have remarked: "The worst of it is, he will do it."

Texas did not let it come to a test. Williams, of Tennessee, afterwards affirmed that Congress would have prepared a most unpleasant surprise for Texas, if it had unanimously voted it New Mexico.[1] This view had much in its favor, although the representatives of Texas in and out of Congress, could never say enough of the heroic resolution with which they would defend to the uttermost the incontestable claims of their state to this district, and some of them so completely lost themselves, as to romance of war and secession on their own account. It could not be said that Texas was simply acting a comedy, if for no other reason, because there was every probability that its northern boundary would at the same time be the northern boundary of the slave domain, and, therefore, even among the politicians of the other southern states, were to be found many champions of its claims who almost surpassed its own representatives in their zeal.[2] Apart from this, it was in view of its already excessive size, presumably only concerned in getting the highest possible price

[1] Ibid., p. 1053.

[2] "Take out the question of slavery, and of what consequence is it where the boundary of Texas may be fixed? Does any man suppose that the money-loving men of the north would vote ten millions of dollars from a common treasury to buy a slip of soil from a slaveholding state, simply to give it to a slaveholding territory?" Brown, of Mississippi, in the House of Representatives, Aug. 29, 1850. Congr. Globe, 31st Congr., 1st Sess., p. 1704.

for the renunciation of its claims, to which no one outside of its own limits would have attached the slightest importance had it not been for the hampering influence of the false pretexts assigned for the war of aggression against Mexico. Here the state of universal excitement now prevailing in the country rendered it excellent service, and, as, far as this could be safely done it acted as if it were perfectly serious with its big words.

In February, 1850, Major Neighbours was sent as an agent to New Mexico, to organize El Paso, Worth, Presidio, and Santa Fé as Texan counties. Inasmuch as the commanding officer had been instructed by the Secretary of War not to interfere in this matter, Neighbours was able to execute his commission in El Paso. In Santa Fé, however, he was less successful. A meeting was called to consider measures of resistance. The Texan party attempted to disturb the assemblage, and it threatened to come to an encounter. At this point, Major Munroe[1] interposed as military and civil governor and restored order. The partisans of Texas forged from this against the President a charge of military usurpation and unwarrantable violation of the sovereign rights of Texas. Neighbours, however, returned to Texas, after convincing himself that he could not accomplish his object without employing force.

In order to secure themselves against further designs of the Texans, the inhabitants of the district were desirous of following the example of California. Accordingly, in conformity with the before mentioned instructions of the 19th of November, 1849, to McCall, Munroe issued, on the 23rd of April, a proclamation[2] arranging for the choice of delegates on the 6th of May to a constitutional conven-

[1] The name is sometimes written thus and sometimes Monroe.

[2] Congr. Globe, 31st Congr., 1st Sess., p. 1296.

tion which was to assemble at Santa Fé on the 15th of the same month.

The southern radicals and the Union rescuers denounced the President on account of this step with a violence that scorned all considerations of decency,[1] and Texas demeaned itself as if it now really intended to appeal to the sword. Governor Bell demanded the removal of the federal troops announcing that, in case of refusal, Texan troops would force them to evacuate the territory,[2] and in a communication of the 14th of June, to the President, he asked to be informed whether Munroe had acted upon his orders. The victor of Buena Vista was not the man to allow himself to be intimidated by such language. Foote recounts, citing Webster as his authority, that after Taylor's death there was found on his table or at the war department, an order to Munroe to drive the Texans out at once, if they ventured upon an invasion.[3] The President did not fancy himself authorized to decide to whom New Mexico belonged, but he would not allow Texas the right of being judge in its own cause. The United States by conquest, purchase, and treaty, were in possession of the district, and in possession they were to remain as far as depended upon him, until the Supreme Court or Congress had otherwise decided or resolved. So far his personal political views and wishes had nothing to do with his de-

[1] Thus, for example, Foote said: "Whoever be the man that has either planned, instigated, or sanctioned this vile scheme, is not a patriot, but an insidious traitor to the public weal, an enemy to his country, whose perfidy and ineffable profligacy I hope may ere long be branded with indelible infamy. Sir, this attempt to establish and organize a state government in New Mexico at this time was obviously intended to aid in defeating our plan of adjustment, and retain the country in its present excited condition." Ibid., Append., p. 1098.

[2] Giddings, Hist. of the Rebellion, p. 326.

[3] Foote, War of the Rebellion, pp. 155, 156.

cision; he asked what was his duty as President, and he was resolved to do it, however loudly those might cry out who wished to adopt, as the supreme principle of the federal policy, the educational principle of old maiden aunts who quiet naughty children with cookies. But he in truth, as Webster said, possessed in a high degree that quality which is called either firmness or obstinacy according as the man is in the right or in the wrong. And the Union rescuers had sorely tried him. From the beginning they had acted as if it was a crime not to welcome the omnibus bill with open arms, and, on the 21st of May, Clay had criticized the President's plan not merely with unsparing severity, but in a tone of absolute contempt. The Whigs, however, learned again as in Tyler's time that it was a poorly paying policy to treat with disrespect the President chosen by their own party. Would they be more likely to make good their mistake in entrusting the helm to the hands of a well meaning, incapable stiff-neck, if Taylor really was nothing more,[1] by calling out his ob-

[1] He is represented very differently by his opponents in both camps, according to the necessities of the moment. Haymond said: "Sometimes we are told the President is weak and almost an imbecile; again it is intimated that he is a great manager, and that he so arranges his matters that he leaves no tracks behind him so that he can be followed, and that his manifold misdeeds cannot be demonstrated by any facts they can bring to light." Congr. Globe, 31st Congr., 1st Sess., Append., p. 600. Taylor must have felt most painfully the assurances of personal regard, with which excuses were made for him at the expense of his understanding. Thus, for example, Seddon, after denouncing for a full hour the President's action in California in the most unmeasured language, said: "For General Taylor, as I have said, I have respect and kindness. I do not in fact hold him responsible for the action and policy developed in that message [of Jan. 21, on California and New Mexico]. He is, I believe, an honest, brave old soldier. His life has been passed in the field and the camp. His training has been to arms and command, not to deliberation and investigation in the chamber of council or the halls of legislation. It is no disparagement

stinacy instead of reckoning with it? Foote asserted that the members of the Cabinet had gone so far as to threaten Senators.[1] Whether this was a fact or one of Foote's exaggerations, I do not know. It is certain, however, that Taylor was more resolved than ever to persist in his plan,[2]

to his character or intellect to hold him not profound in national or constitutional law. He would be more than mortal man if he were. His cabinet have been differently raised and exercised. They have been selected for their supposed maturity of wisdom and fullness of experience on such subjects. On them General Taylor would naturally rely, and by their counsels be guided in all such matters. In justice and in truth his cabinet are responsible for the unconstitutional action, the usurpations and insidious tendencies of the policy disclosed by that message. Such responsibility before this House and the country I would fix upon them. The consequences of his action and the results of his policy were surely not appreciated by the President. I much fear me, his unsuspecting honesty has been practised on—his generous confidence abused." Ibid., p. 78. It was the more mortifying to be declared a puppet in the hands of the cabinet, because, in spite of all raging declamations, an insulting contempt was affected towards the cabinet itself. "We cannot conceive a more degrading position than that of a cabinet which is only tolerated because its true character is unknown, or which is so perfectly insignificant as to make it a matter of indifference. Such seems the case of General Taylor's cabinet of 'Moderate Federalists:' moderate in talents—moderate in experience—moderate in every thing except turning men out of office, and paying interest on old claims." The Democratic Review, June 1850, p. 492.

[1] Congr. Globe, 31st Congr., 1st Sess., Append., p. 1093.

[2] "General Taylor told me, in the last conversation I had with him, that he preferred that California should not come in at all, rather than that she should come in bringing the territories on her back. And if he had lived, it might have been doubtful whether any general settlement would have been made. He was a soldier, and had a little fancy, I am afraid, to see how easily any military movement by Texas could have been put down. His motto was, '*vi et armis!*' He had a soldier's foresight, and saw quite clearly what would be the result if Texan militia should march into New Mexico, and there be met by troops of the regular army of the United States. But that he had a statesman's foresight, and foresaw what consequences might happen in the existing state of men's opinions and feelings, if blood should be shed in a

and consequently Clay's omnibus stood still. It was inevitable that there should be an explanation between the President and the southern Whigs. On the 1st of July, the latter held a secret meeting and resolved to make one more attempt at peaceful representations before they openly declared a breach. Conrad, of Louisiana, Marshall, of Kentucky, and Toombs were commissioned to negotiate with him. They went to him individually, and informed him that the southern Whigs would be forced to abjure their allegiance to him unless he would assume a more well disposed attitude towards Texas, and would give up recommending the immediate admission of New Mexico as a state. He roundly refused to make even the slightest concession on either of the points, and declared that he was placed under the necessity of choosing between the two wings of the Whigs, and that he could not for the sake of the 29 southerners separate from the 84 northerners.[1]

That this answer again gave the crisis a much more serious character, cannot be denied, although, according to what has been already said,[2] we cannot concur in Hodgson's view that it was this that forced the south into the rebellion. But what further had to be and would be done in order to pilot the ship safely into the haven of compromise was hard to say. At this point death unexpectedly appeared on the scene as a rescuer.

On the 4th of July, Taylor had attended an open air celebration at which Foote delivered the usual address.

contest between the United States and one of the southern states, is more than I am ready to affirm." Mr. Webster to Mr. Haven, Sept. 12, 1850. Webst.'s Priv. Corresp., II., p. 387.

[1] Claiborne, Life and Correspondence of J. A. Quitman, II., pp. 32, 33.

[2] The Cradle of the Confederacy, p. 276.

The suffocating heat of the sun threw the President into a violent fever which soon assumed a dangerous character. On the 9th of July, he expired, declaring that he had honestly tried to do his duty, and had nothing to repent.[1]

The news of Taylor's death made a deep impression throughout the country. It was universally felt to be an event of great importance, but no one was able to predict with certainty its effect on the course of national politics. For a second time, but at an infinitely more serious juncture, the White House had been suddenly and unexpectedly changed into a house of mourning, and a second time it was the will of destiny that the Vice-President who was to enter there owed his election to the second office of the Republic more to a temporary whim than to ripe deliberation. The real candidate of the Philadelphia convention had been Abbott Lawrence, of Massachusetts, who had, however, been dropped to punish the violent opposition of some delegates of the state to the attitude of the national convention on the slavery question. Millard Fillmore, to whom they then turned, was not a man of national reputation. The general public knew little more of him than that he had for some time belonged to the House of Representatives, and that he had once been an unsuccessful candidate of the New York Whigs for governor. Those who had followed politics more closely could recall that at the head of the important committee of the House on Ways and Means, he had proved himself

[1] Horace Mann characterizes him with equal brevity and fitness, in the following words: "He really is a most simple-minded old man. He has the least show or pretention about him of any man I ever saw; talks as artlessly as a child about affairs of state, and does not seem to pretend to a knowledge of anything of which he is ignorant. He is a remarkable man in some respects; and it is remarkable that such a man should be President of the United States." Life of Horace Mann, p. 292.

a conscientious, industrious man, of sound, clear judgment, and those who made inquiries in his own state and among his personal acquaintances might hear him praised as a plain, honorable and patriotic man, who gladly kept to the broad safe middle course. The conservatives, therefore, hoped from the beginning that, although he had formerly favored the Wilmot proviso, the change in the Presidency would be of service to them.[1] When he called Webster as Secretary of State to the head of his cabinet, it was certain that henceforth the entire influence of the administration would be exerted to bring about the compromise.

The storm had been so violent that the waves continued to run high for some time. But in spite of this there remained really only questions of detail to be settled and difficulties rather of a formal nature to be overcome. Clay's omnibus was left sticking in a swamp. When the bill was passed on the 31st of July, the territory of Utah was all that remained of its original contents. The House

[1] Webster writes as early as July 11 to his friend Haven: "One thing I feel sure of, and that is that they (the new ministers) will be sound men. The President is a sensible man, and a conservative Whig, and is not likely to be in favor of any 'isms,' such as have votaries at the present day.

"I believe Mr. Fillmore favors the compromise, and there is no doubt that recent events have increased the probability of the passage of that measure."

And on the following day: "My dear sir, you see the spirit of good will which is manifesting itself here. This is the golden hour of opportunity, be assured. The opposition gentlemen are determined, all the conservative part of them, at least, to give the administration fair play; and Mr. Fillmore is well-intentioned and discreet. He will meet with annoyances from the rather overbearing spirit of a certain quarter (evidently Clay is meant), but I hope he will stand stiff. If he is successful in forming his administration, I verily believe a prospect is before us for a better state of things than we have enjoyed for twenty years." Webst.'s Priv. Corresp., II., pp. 376, 377.

burst into a roar of laughter when the bill was sent back to it in this shape. The vanity of the authors was naturally somewhat wounded by this fate of the child of their sorrow, for which they had fought so desperately almost two months. And they acted as if the whole question had now been reöpened. Clay had, nevertheless, little cause to play the injured man or assume a tragic mien. The essential contents of his propositions were not abandoned; but it was only chosen to give them another form more in harmony with the actual state of affairs, and this was done because it was absolutely necessary, and at the same time perfectly possible, to make this concession to those who were unwilling to allow California to be used as a tow-line for the whole compromise. It sufficed now to arrange the questions in their proper order to be sure that they would all be solved according to the wishes of the Union rescuers. Therefore, in spite of the rejection of the omnibus bill, the honor of being the chief originator of the compromise of 1850 was rightly attributed to Clay by his contemporaries, and, therefore, too, history rightly makes him primarily responsible therefor.

The last stadium of the compromise negotiations was introduced by a message of the President, on the 6th of August, on the Texas question.[1] The President communicated to Congress the letter of Governor Bell to Taylor, of the 14th of June, and the answer of Webster,[2] dated August 5th, and pointed out that the governor had assembled the legislature in order, as far as was known, to proceed to the occupation of New Mexico by force of arms. In a more extended argument he then demonstrated that the standpoint adopted by Taylor was the only permissible one; that is, that the President had absolutely no choice,

[1] Statesm.'s Man., III., pp. 1894–1899.
[2] Webster's Works, VI., pp. 479–487.

since he could look upon New Mexico only as United States territory, and must execute the laws. This was followed by an urgent admonition to come to a friendly understanding with Texas without delay, and by a recommendation that the latter be offered a suitable indemnity.

The Senate immediately complied with this request. On the 9th of August it passed the Texas bill by a vote of 30 to 20,[1] modifying slightly the boundary lines fixed by the omnibus bill, but not to the disadvantage either of Texas or of the south,[2] and fixing the amount of the indemnity at ten million dollars. With the Texas bill was afterwards coupled the bill organizing New Mexico as a territory;[3] the constitutional convention in New Mexico had, therefore, met in vain. With regard to slavery the bill contained two provisions: the territory in due time was to be admitted as a state with or without slavery, according as its constitution should provide; and in all suits involving title to slaves, an appeal should be allowed to the Supreme Court without regard to the value of the object in controversy. Congress thus imposed the decision, with its fearful responsibility, upon the Supreme Court. At any rate, the avowal of impotence was clothed in a formula that declared that it belonged to the Supreme Court to decide what the constitution provided. But the

[1] Stat. at L., IX., pp. 446-452.

[2] Texas now extended north only up to the Missouri line; the 5th section of the bill, however, provided that this law shall not alter anything in the provisions of the resolutions of annexation, "either as regards the number of states that may hereafter be formed out of the state of Texas, or otherwise." Thus the south had the prospect, in the course of time, of being able to cut one more slave state out of Texas than was in accordance with the provisions of the resolutions of annexation, as they had been hitherto almost universally understood.

[3] On the 15th of August it was passed by the Senate by a vote of 27 to 10, after, on the 14th, Chase's motion expressly to prohibit slavery had been rejected by a vote of 25 to 20.

mask was so transparent that it could deceive only those eyes which did not wish to see. The constitution said nothing about slavery in the territories, and to Congress—and to Congress alone—belonged the right and duty of its legislative interpretation. The office of the judge is solely to decide concrete questions of right according to the laws, and he must, therefore, refuse to enforce laws which, on account of their unconstitutionality, have no legal force; that is, which are laws only in form, but not in contents. But a judge never can, or ought to, be given the right, or subjected to the duty of determining, what the law ought to be; and this was what the bill indirectly did.

The ice was broken by the passage of the Texas bill in the Senate. In what direction the saving fountain of compromise was now about to flow, and what was the nature of its waters, we may learn from the old champion of liberty, Giddings, who, at the beginning of the session, had still been so joyous and hopeful: "Sir, the message begins with General Taylor's policy, and ends with that of the Secretary of State. It begins in boldness, and ends in political pusillanimity. It commences by maintaining our national rights, and closes by advising us to surrender them up. It begins by informing Texas that she must submit to constitutional authority, and ends by proposing to pay her richly if she will but obey the constitution.

"The message was evidently intended to facilitate the passage of these bills, to which I have referred. Indeed, the President's organ (the *National Intelligencer*), the oldest Whig paper, perhaps, in the Union, conducted with great dignity and general propriety, comes out this morning giving a programme of the future action of this body. It not only anticipates the passage of these objectionable bills here, for the reason that they are in accordance with

the recommendation of the President, but foretells their passage *in the order in which they are sent us from the Senate.* * * * I have been told this morning, also, that the whole thing was arranged before the defeat of the omnibus bill; that leading members of the other end of the capitol had arranged the whole affair, and that the bills are to be forced through under the screw of the previous question without being committed or discussed, and that this is to be done by Whig votes. * * * I am aware, Mr. Chairman, that you southern men hold your caucuses almost nightly, agree upon your measures, and unite your efforts to subject the north to your views."[1]

On the 12th of August the Senate passed the California bill by a vote of 34 to 18. On the 14th of August Hunter, of Virginia, presented to the Senate a "protest," dated the day before, and signed by him and nine other southern senators, with the request that the same be entered upon the journal. The Senate refused to comply with the wish. The protest, accordingly, did not appear in the journal of the Senate; but none the less was the fact registered in the tablets of the country's history, that ten senators had offered a formal protest against the compromise that was to bury the slavery question forever—that the avowed reason assigned for the protest was, that the compromise deprived the south of its constitutional right to an equal share in the territories; and lastly, that the protest closed with the declaration that the slave states would not remain in the Union unless their constitutional right of equality was allowed them. Was this only one

[1] 12th of August, Congr. Globe, 31st Congr., 1st Sess., p. 1562 In the separate edition of Giddings' speeches, the speech is wrongly dated the 13th of August, and, according to the well known disreputable practice of American politicians, all sorts of little alterations are made in it.

of those dissonances which musicians employ as a foil, so to speak, for the harmony that is to follow?

On the 24th of August, the Senate resolved by a vote of 27 to 12 to engross the bill for the delivery of fugitive slaves,[1] which I shall henceforth for the sake of brevity call, according to Kapp's example, the fugitive slave law. Only two northern senators, Sturgeon, of Pennsylvania, and Jones, of Iowa, had voted with the southern majority, and the names of fifteen northern senators are lacking in the list of votes. From this fact alone a conclusion can be drawn as to the character of the bill. It could not be rejected, for the entire compromise would thereby have fallen through, but it was such an abomination in the eyes of the north, that only two senators had the melancholy courage to vote for it.

The bill[2] began by charging with the execution of the law, commissions appointed by the circuit courts of the United States and the superior courts of the territories, whose numbers could be increased as needed.[3] Equally with the judges of the circuit and district courts they

[1] This is to be regarded as the decisive vote. With regard to the last vote the Congressional Globe gives nothing more precise.

[2] Stat. at L., IX., pp. 462–465.

[3] Mason had at first moved that all postmasters should be ex-officio bailiffs of the slave-hunters. At the first glance, the thought appears absurd, but Mason had his good reasons for the proposition. "It has been said to me by gentlemen in conversation, that we ought not to impose this duty upon postmasters; that many of them are men not sufficiently conversant with the forms of business, with judicial forms, to execute such a law. I admit it; but there is no remedy. If the law is to be effectual, you must provide officers to execute it at almost every cross-road, in all the counties of the offending states. If the law can be executed, it must be done by officers of the Federal Government, and we are obliged to take those already existing, unless you would create a new batch, and pay them adequate salaries, to be located at every point, in every county of the non-slaveholding states." Congr. Globe, 31st Congr., 1st Sess., p. 236.

were to take cognizance of plaints for the delivery of fugitive slaves, a provision the constitutionality of which was much attacked, because the constitution did not give Congress a right to transfer judicial powers to officials who were not judges. The "satisfactory proof," which was required in order to deliver up the accused to the alleged owner or to his agent as a slave, was the official establishment of the fact of the escape of a slave by the testimony of two witnesses and a declaration on oath with regard to the identity of the person.[1] The procedure was to be "summary" and the testimony of the accused was not to be admitted. "All good citizens" were "commanded," if thereto required, "to aid and assist in the prompt and efficient execution of this law." If the alleged slave escapes from the marshal or his deputies, the marshal is responsible to the owner thereof for his full value. Whoever knowingly harbors or conceals a fugitive slave in order to prevent his arrest, shall be fined not more than $1,000, and imprisoned not more than six months, and shall, in addition, if the slave escapes, pay the owner $1,000. If the owner fears a forcible rescue of the slave awarded him, the official, in whose hands the slave is, may, at the expense of the United States, employ

[1] The affidavit for the establishment of the identity—"a general description of the person so escaping, with such convenient certainty as may be"—did not need, however, to be made before the judge before whom the fact of the *escape of a slave was established.* "A transcript of such record" shall be sufficient proof that the person therein described is a slave, "and upon the production by the said party of other and further evidence if necessary, either oral or by affidavit, in addition to what is contained in the said record of the identity of the person escaping, he or she shall be delivered up to the claimant. * * * *Provided*, That nothing herein contained shall be construed as requiring the production of a transcript of such record as evidence as aforesaid. But in its absence the claim shall be heard and determined upon other satisfactory proofs, competent in law."

as many men as he deems necessary and retain them according to his discretion in order to prevent the rescue. And lastly, as a worthy crowning of the whole, if the alleged fugitive is delivered up as a slave the commissioner receives ten dollars, but if the reclamation is rejected as insufficiently proved, he gets only half that sum.

There can be no doubt, in my opinion, of the constitutionality of the bill. The objection mentioned above appears to have little force, since in the first place it was at least disputable whether there was any question here of the exercise of judicial functions at all, and secondly, if this question was answered affirmatively, it could be said that the commissioners were special judges under another name. A judgment by sworn jurymen was certainly, in view of the peremptory character of the clause requiring delivery, not absolutely essential, and all the less, that the delivery was not regarded as a judicial decision concerning the legal status of the man claimed. This was left to the tribunals of the state or territory from which he was claimed to have fled. Clay had accordingly demanded guaranties that the accused should then be brought before a jury, and the fugitive slave law was, therefore, an essential alteration for the worse of the omnibus bill.[1]

But even if the law was constitutional it was none the less in the highest degree objectionable. From the standpoint of humanity, fairness, and morals it needs no closer examination; it is enough to read its provisions through once attentively, in order to turn from it with horror and indignation. That the Democratic republic could bring

[1] R. Conkling said, 1863: "We had * * * adopted a fugitive slave law, which I heard Douglas tell Mason he [Mason] drew, and made as stringent as he could, and Mason admitted it." The Sumter Anniversary. The Loyal National League, in mass meeting on Union Square, New York, p. 93.

itself to take part in such fashion for the slave-hunter and against his victim, and that it was made so fearfully easy for unscrupulousness, revenge, and greed, to convert free men and women into slaves, will always remain a deep stain in the history of the United States.

Whom the Gods will destroy, they first make mad. The old saying had here received a striking confirmation in the case of the slavocracy. The fugitive slave law was a deadly blow to it inflicted by its own hands, and this political side of the question was of infinitely greater significance than the constitutional quibblings.

It cannot be denied that the south had good grounds for complaint. It is not necessary here to try what skillful dialectic and audacious sophisms can accomplish with regard to the particular laws of the free states of which it complained. The constitution had undeniably intended not only to give the slaveholders generally the right of claiming their fugitive slaves, but also to make their recovery as easy as was possible without infringing or endangering the rights of third parties. The so-called liberty laws, however, all aimed at placing difficulties in their way.[1] However these laws were to be judged from

[1] The following statements of Butler are in perfect accord with the facts: "The legislation of these states have been of a different character, with but one aim. That which took place previous to the judgment of the Supreme Court, in the case of Prig vs. Pennsylvania * * * was with a view to counteract the legislation of Congress, and, in its operation, to defeat the constitution. That which has taken place since that decision has been skillfully framed to evade the force and effect of the judgment. Its whole character has been that of an adversary, framing its legislation with skillful hostility to the rights, the constitutional rights, of the slaveholding states of this confederacy. The result has been that there stands the constitution, a dead letter, and here lives the state legislation that destroyed it. The constitution has been stationary, whilst laws have been aggressively progres-

an ethical standpoint, the charge of *mala fides* was well founded, even if a formal justification of all their separate provisions were possible. And this *mala fides* cost the border states a very considerable sum every year. Butler, of South Carolina, reckoned the yearly loss of the south by the escape of slaves at $200,000.[1] Unquestionably the estimate was much too high although the traffic on the underground railway was already quite lively.[2] But even had the material injury and the right of the south to complain been still greater, what were they in the face

sive." Congr. Globe, 31st Congr., 1st Sess., Append., p. 79. In this speech there is also to be found a short review of the laws in question of the several states.

[1] l. c. Clingman knew how to figure out a very different account. "The extent of the loss to the south may be understood from the fact, that the number of runaway slaves now in the north is stated as being thirty thousand—worth, at present prices, little short of fifteen millions of dollars. * * * It was stated in the newspapers the other day, that a few counties in Maryland, had, by the efforts of the abolitionists within six months, upon computation, lost one hundred thousand dollars worth of slaves. A gentleman of the highest standing, from Delaware, assured me the other day that that little state lost, each year, at least that value of such property in the same way." Congr. Globe, 31st Congr., 1st Sess., p. 202.

[2] The road, of course, terminated in Canada, because only there were the fugitives perfectly safe from their pursuers. The names of the "stations," and those in charge of them were known only to those concerned, but the slave who was near enough to a fort or to the border of a free state to have the possibility of escape, and who had the courage for the venture, could always learn the addresses. He could rely absolutely upon the devotion and secrecy of the agents. The fugitives and their helpers often showed an ingenuity and daring bordering on the marvelous. The time will yet come when, even in the south, due recognition will be given to the touching unselfishness, simple magnanimity, and glowing love of freedom of these law-breakers on principle, who were for the most part people without name, money, or higher education. Those who are interested in further details of this chapter of the history of slavery are referred to the reminiscences of Levi Coffin and W. Stell, The Underground Railroad.

of the inevitable consequences of this law? Webster had pointed out that the New England states had complained most bitterly of the obligation to deliver fugitive slaves, although for many years not a single case had occurred in which they had been obliged to do it. And, on the other side, Bissell, of Illinois, called attention in the House of Representatives to the fact, that those of the slave states from which no slaves could ever escape, as Mississippi and Alabama, were the most violent in their complaints that the north did not fulfill its obligations in this regard. Yet no one was silly enough to charge against the New England states or Mississippi and Alabama that their embitterment was a lying game of demagogic agitation. The true facts were a drastic proof of the fearful exasperation with which the extreme wings of both parties already regarded the ethical side of the question. "Sentiment, sentiment, sentiment alone," had been the cry of the great compromise maker. And if it had in truth, not only in the north but also in the south, been a question of sentiment alone, the days of the Union would none the less have been numbered, for sentiments are mighty, still-convulsing forces, when in manly peoples they attain to such intensity. The conclusion from this for the south was, that, if it really was chiefly anxious to make its material loss as small as possible, it ought, as Seward said,[1] to make the law for the delivery of slaves, milder rather than more stringent. On the day on which the House passed the bill, Horace Mann wrote to Downer: "If the friends of freedom do not rally on this, they are dead for half a century."[2] There was no cause for fear. As early as the 21st of March, the *Independent* had written with good right,

[1] Works, I., p. 67.
[2] Life of Horace Mann, p. 329.

that all fugitive slave laws would remain a dead letter.[1] Yes, as far as the giving up of the fugitive slaves was concerned, but otherwise by no means. The law was so hideous that it called forth from the friends of freedom a cry of indignation and rage that sounded as shrill to the northern conscience as the first battle-cry of the abolition-

[1] "Mr. Calhoun, who is seldom at fault in his facts and judgments, though in his principles he is crazy enough, declared the truth, that no enactments would be of any use if the people of the North were indisposed to arrest fugitive slaves. The people are opposed to slave catching on free soil! No enactments will be of any use! Ten thousand pulpits are every week pouring light upon the public mind. Every religious paper (save a few whose subscribers are in the valley of vision, a great army of dry bones), is standing for the right. Some few there be that dare not speak for the oppressed; but they are equally too cowardly to speak against the public sentiment of humanity which lives in the north. And Daniel Webster might as well pour oil on Niagara to calm it, as honeyed words on the true conscience and outbursting humanity of northern freemen and Christians, to quiet them." And there were other southerners who saw no less clearly on this point than Calhoun. Butler said: "The federal legislature, within its constitutional competency, has too limited means to carry out the article of the Constitution to which this bill applies; and, sir, I know this much, that the cardinal articles of the constitution are not to be preserved by statutory enactments upon parchment. They must live and be preserved in the willing minds and good faith of those who incurred the obligation to maintain them." Congr. Globe, 31st Congr., 1st Sess., Append., p. 79. And Mason himself, the chief originator of the law, admitted: "I fear, therefore, seriously fear, that, pass what law we may, such law will be found inoperative: for no law can be carried into effect unless it is sustained and supported by the loyalty of the people to whom it is directed." Congr. Globe, 31st Congr., 1st Sess., p. 233. Why then, pass the law, unless it was desired to drive a fresh wedge into the frail Union? Mason declared: "I trust, sir, that it may have some effect, if not in enforcing this law of the constitution, at least in informing the citizens of the non-slaveholding states what their duties are under this confederacy." Ibid. p. 236. Even if *fiat justitia pereat mundus* could be the supreme principle of politics, this standpoint could not have been justified, because in this case, the *summum jus* had been condemned as *summa injuria* by the moral consciousness of the time.

ists. The conservatives and the politicians might cling never so desperately to the sheet anchor of the compromise of 1850, every attempt to execute the fugitive slave law increased the number of its opponents, and the more regardless of consequences the attempts were, the more effective a propaganda they proved for those who cursed them from the bottom of their hearts. No other single measure did so much to convince the north of the necessity of breaking the power of the slavocracy—so much to steel the nerves and hearts of the people for the final struggle. Assuredly they who opposed the execution of the fugitive slave laws were law-breakers, but when the legislators venture to force upon a great, high-minded, and deeply religious people a law that tramples in the dust its holiest feelings and convictions, the people will always in the end march on with crushing tread over law and law-givers.

The great work was now accomplished. There remained to pass only the bill on the slave trade in the District of Columbia, and this the Senate delayed till the other bills should have been accepted by the House. In accordance with the announcement of the *National Intelligencer*, a beginning was made with the Texas bill. If this should be passed, the whole compromise might be looked upon as secure; not because the Texas question offered in itself the greatest difficulties, but because according to the programme of the Union rescuers, all the bills formed a fine chain, not a single link of which could be safely broken out; with one they all would fall, and each one drew all the others with it; but it was necessary, as a matter of course, from the entire idea of the compromise to begin with a bill that was acceptable to the south. The Texas bill, however, was best adapted to disturb and break through the ranks of the northern opposition, because it

offered a ringing reward for the patriotic deed of saving the Union.

The ideal impulse that ran through Europe in 1848, had found a sympathetic disposition of minds in the United States. As then, after a short time the reaction gained a preponderance, so here, too, a strong opposing tendency soon set in. People, it is true, continued to hold forth violently about European tyrants, bade the fugitives heartily welcome, and fêted the Hungarian champions of liberty in particular in an absurd and almost unworthy fashion; but a materialistic spirit was taking possession of daily wider circles of the people—a spirit that readily allowed twice two to be three in matters of ideal interest, provided it could make twice two five where material interests were concerned. This was in great part to be attributed to the gold discoveries in California. Trade and commerce received a violent, unhealthy impulse, and the mania of growing rich quickly and without toil became epidemic. The political confusion, which everywhere exerted a disturbing influence on the development of economic relations found, therefore, a particularly sensitive tone of feeling. For this reason we saw the mercantile and industrial circles, which in the United States have always been among the warmest and most devoted cherishers and supporters of ideal interests, respond with such frightful pusillanimity to the cry that the Union was in danger. And this was why so ready a hearing was often found among them by the politicians who now began to whisper to them that this was a most excellent opportunity to get from the south, in return for political "abstractions," real, solid advantages, which otherwise it might not be possible to obtain for many years. Webster, in particular, took it upon himself to allure the New England states and Pennsylvania with the prospect that a protective tariff could

now be put through,[1] and it was Boston that first and formally capitulated. Webster had long bitterly complained that he met with no support from the representatives of Massachusetts,[2] and now he exulted because Boston had chosen a representative[3] who favored the compromise. His joy drove him to the exaggeration that it was only then that the salvation of the Union was accomplished.[4]

[1] Horace Mann writes, Sept. 17: "There is a great rush here (in Washington) of the tariff party. Mr. Webster has held out the idea all summer, that, if we would surrender liberty, the south would withhold their opposition to a tariff. This is the idea that has worked such a wonderful change in Boston and in those parts of the state connected by business with it; and almost all parts are so connected. It is the pecuniary sensorium, and the nerves reach to all the extremities. * * * This idea, therefore, that money is to be made by a settlement of the difficulties in favor of slavery, has been the corrupting idea of the year, and it has worked its way with prodigious efficacy. Several attempts have been made to get a tariff measure through, but as yet all have failed. I suppose this to be the reason why there is such a flocking here now from Lowell and Boston." And on Sept. 24: "There has just been another desperate attempt to get a tariff. * * * We are surrounded by lobby members from Pennsylvania and New England. The men who have been ready to barter away liberty, and blood, and souls for profit, have failed again miserably. Mr. Webster's promise, made at the Revere House, that, if the north would go for conciliation [that is, the surrender of liberty], they could then have 'beneficial legislation' [that is, a tariff], has not been fulfilled." The Life of Horace Mann, pp. 331, 335.

[2] On the 7th of Aug. he writes: "All must see that it cannot but be disagreeable to me to struggle day after day, and waste my health, in the Senate or in the department, to bring about a settlement of national difficulties, and yet have no Massachusetts following." Private Corresp., II., p. 382. That he excepted Ashmun has been already mentioned.

[3] "Boston, ever true and glorious Boston, has helped us immensely. Mr. Eliot's triumphant election awakened entirely new hopes. Up to that period they had no hopes of the north. I never knew an election, by its mere character of an election, on certain principles, produce half so much effect." Ibid., p. 385.

[4] "It would be of little consequence, my dear sir, if I could only say that Boston saved me; but I can say with all sincerity, and with

The hopes of a tariff again proved wholly illusory. The Texas bill, on the contrary, was a regular gold bag, and though it may be that not so many members of Congress had their hands in it as was claimed by the opponents of the compromise, there can, nevertheless, be no question that to this peculiarity of the bill its final passage was in a large measure due. The market value of Texas scrip had fallen to four or five cents on the dollar. The compromise bill caused it to mount rapidly. By the 18th of June it brought fifty cents,[1] and people began to think it possible that they would yet get dollar for dollar after the passage of the bill. On the vote of the House it now depended whether millions were to be lost or won. The nearer the day of the decision approached, the more speculators in Texas scrip arrived at Washington, and the more energetically the lobby worked. When suasion failed of its end, a share in the speculation was granted. It was asserted that scrip to the value of three millions was in the hands of government officials, members of Congress, and agents.[2] We can the less wonder that,

the fullest conviction of its truth, that Boston saved the country. From the commencement of the government no such consequences have attended any single election as those that flowed from Mr. Eliot's election. That election was a clear and convincing proof that there was breaking out a new fountain of brilliant light in the east, and men imbibed hopes in which they had never before indulged. * * * Whatever prejudices may have existed in the minds of honorable southern men against our good city, they are now all sunk and lost forever in their admiration of her nationality of spirit." Ibid., pp. 387, 388.

[1] The Life of Horace Mann, p. 303.

[2] Giddings, Speeches, p. 403. "Even members of the cabinet were charged with having purchased large amounts at small prices, to be returned in case the bill alluded to should fail of becoming a law. Members of Congress offered some of their fellow members a hundred thousand dollars of Texas bonds, to be paid for at seventeen cents upon the dollar, and if the bill passed they were to be received

after the courage and the convictions of the northern delegates had been stormed at for nine long months with threats, arguments, and adjurements, this weight proved heavy enough to turn the scales at last in favor of compromise, if we reflect that the scale had remained quivering in the balance so long, solely because a southern opposition had worked with the northern. We can in truth only be surprised that even now, for a moment, all seemed lost.

On the 4th of September, after a long contest, the House refused by a vote of 126 to 80 to engross the Texas bill for a third reading. Great was the consternation of the Union rescuers. When, however, on the following day a reconsideration of this resolution was voted, they thought it was only a blind alarm shot. But after a second violent war of words, the third reading was again refused by a vote of 107 to 99. When now a second reconsideration was demanded, the speaker pronounced the motion inadmissible under the rules of the House.[1] Howard, of Texas, appealed from this decision of the speaker to the House, which adjourned amid great excitement. Never had the Union rescuers and the lobby been more active than they were this evening and the following morning, in order to procure a reversal of Cobb's decision. The latter justified his decision at length, but the House by a vote of 123 to 83 declared him in the wrong, on the ground that the bill had been amended since the first reconsideration by coupling it with the New Mexico bill. The reconsideration was then voted by a majority of 38. Before they then proceeded to a vote on the main question, Mor-

back by the vendor at sixty-seven dollars on the hundred, so as to give the purchaser fifty thousand dollars for his vote." Giddings, History of the Rebellion, p. 327.

[1] See Cushing, Law and Practice of Legislative Assemblies, pp. 507, 508.

ris, of Ohio, demanded the reading of the 17th rule which allowed only certain persons to be present in the hall of session, and remarked thereon that the owners of Texas bonds could see and hear just as well from the galleries. A loud cry of exultation greeted the announcement that the third reading had passed by a vote of 108 to 98.[1]

The other bills were now passed in quick succession: the California bill on the very next day (Sept. 7th), and the Utah bill on the 9th. On the 10th of September, Webster wrote to his friend Harvey: "It is a day of rejoicing here, such as I never witnessed. The face of everything is changed. You would suppose nobody had ever thought of disunion. All say, they always meant to stand by the Union to the last."[2] To be sure, the fugitive slave law had not yet been passed, but this could no longer be a drop of anxious care in the brimming beaker of joy, since Giddings had been correctly informed when he had heard that the screw of the previous question was again to be applied after the good old fashion. In particularly ugly questions, the south had always liked to let northern representatives do the disagreeable work. On this occasion Thompson, of Pennsylvania, it was that undertook to apply the parliamentary hangman's cord. This dark, worthy man was the only representative that the country had an opportunity of hearing on this bill. By a vote of 87 to 69, the House passed the previous question moved by him, and then, on the 12th of September, passed the

[1] "The announcement of the result was received with manifestations of applause of various kinds, the most peculiar and attractive of which was a sort of unpremeditated allegro whistle, which the Reporter does not remember to have heard before [certainly never in the House of Representatives]. The other tokens of glorification were of a less musical order." Congr. Globe, 31st Congr., 1st Sess., p. 1764.

[2] Priv. Corresp., II., p. 385.

bill by a vote of 109 to 76. Only now, after the north in return for the admission of California had voted the entire compromise so far as it made demands on the north, did the Senate (Sept. 16) allow the bill on the slave trade in the District of Columbia to pass.

Just before the vote, Foote and Jefferson Davis came to a dispute on the attitude of Mississippi relative to the compromise. Foote affirmed that nine-tenths of the population were in favor of it, while Davis declared that nearly every prominent man in the state condemned it. Two days later, Chase said: "The question of slavery in territories has been avoided. It has not been settled;" and, in accordance with this conviction, he asked permission on the same day, to bring in a bill expressly prohibiting slavery in the territories. Clay opposed it violently: "I hope it will not be granted. There is, I believe, peace now prevailing throughout our borders. I believe it is permanent. And I trust that the Senate will at once, and without hesitation put its face against any further disturbance of the country."

In order with the declarations of Jefferson Davis still in their ears, to proclaim the permanence of the peace, it was necessary either to have a faith which could do more than move mountains or the **naiveté** of a Cass, who on the same day announced: "I do not believe any party could now be built up in relation to this question of slavery. I think the question is settled in the public mind. I do not think it worth while to make speeches upon it."

Hale gave these two most shining lights of the west, the most prominent representatives of the two national parties, a fitting answer: "And now gentlemen flatter themselves that they have done a great deed for the peace of the country. Everybody is pleased except a few 'wild fanatics.' All others are delighted, and are binding the brows of

those who have consummated this great work, with laurels; they are burning powder to blazon forth their glory, singing songs to immortalize their deeds, and screaming themselves hoarse with pæans of praise to those who have been foremost in this great work. Sir, let not gentlemen deceive themselves. The pen of inspiration teaches us that there was a time when a set of men cried 'Peace! Peace! but there was no peace.' Let me tell you there is no peace to those who think they have successfully dug the grave in which the hopes, the rights, and the interests of freedom have been buried. No, sir, that peace will be short, and that rejoicing will most assuredly be turned into mourning. Gentlemen altogether mistake the character of the people whose sentiments have been violated, whose wishes have been disregarded, and whose interests have been trampled in the dust."

Here was the text for the history of the next ten years, the last years of *this* Union.

CHAPTER XVII.

SLAVERY "A POSITIVE GOOD."

The broad basis on which the compromise of 1850 rested was the conviction of the great majority of the people, both north and south that it was fair, reasonable and patriotic to come to a friendly understanding. Apart from the pure abolitionists, who from the height of their absolute principle looked out over and beyond the tumult of party contention, the number was still infinitesimal of those who unconditionally condemned all further bargaining with the slavocracy on the ground that, from the nature of the case, compromise could only be another term for concession. And still smaller was the number of southern radicals—if there were any such at this date—who were honestly convinced that to enter into any plans for an accommodation would be ruinous, and incompatible with the honor of the south. Criticism on either side, therefore, was mainly confined to the separate provisions of the compromise with regard to which the supporters of the measure stood in a weakly defensive attitude. The latter on the other hand rested their justification and their claim to recognition on the simple fact that they had brought about an agreement and in comparison with this fact they allowed only a secondary importance to any and all of the provisions of the agreement. A third side of the question, essential for the full comprehension both of the contest that had preceded and of the further development of the struggle, has been hitherto almost wholly overlooked. Although a great step had been actually

taken towards the solution of the problem, the erroneous views of all parties with regard to one element of decisive importance had only taken deeper root. And by this again the approach of the decision was hastened, because all parties in consequence of their false assumptions, advanced on their respective ways at a rate at which they never would have gone, if through a right comprehension of that element they had been enabled to perceive the goal to which these paths would necessarily lead.

We may be permitted to doubt whether many of the thinking men of the great middle party were really under the delusion that they had buried the slavery question forever. They may have believed that they had provided against a violent catastrophe for all futurity, and they had the cheering hope that peace was secured for a sufficient number of years to enable them to say to the people with the rich man in a certain biblical parable: "Eat and drink, my soul, and take thine ease." This self-contented confidence could not fail to drive the ship of "non-intervention" whose timbers were fabricated of conscious equivocation, still more swiftly on to the rocks, on which it must sooner or later have been shattered even without the aid of ambitious demagogues. The only conclusion, however, that the southern radicals could draw from this was that the slavocracy might with greater firmness have got far more, and they determined to use the experience as a lesson for the future. Their political opponents shared this conviction but, for the rest, they drew from the same facts exactly the opposite conclusion. They had been strengthened in the belief that the secession of the southern states was only a phantom, and in this belief even the weaker spirits found courage to pronounce the era of compromise at an end.

All these parties were laboring under a serious error,

an error with just a sufficient admixture of truth to make them cling to it tenaciously, and the error of all three sprang from the same root—a partial misconception of the fact that the sharpest spur that urged the slavocracy on was their own weakness—a weakness ever becoming more glaringly evident, and increasing more rapidly every day.

The fact was in too high a degree the determining element in the contest, and it had too great weight as an argument for fair play, for the south to be able to avoid making constant reference to it. Yet at the same time, for reasons which can readily be understood, the south was also ever anxiously striving to conceal the fact. In the same breath it employed the fact as an argument and denied it emphatically, and, nevertheless, was acting *bona fide;* pride and the instinct of self-preservation would not allow the slavocracy to avow to itself directly and without reservation a fact, which, nevertheless, was and had to be, the basis of its entire policy. In all honesty of conviction they continually tried to show the north that it had by far the most to lose in a disruption of the Union, and that it owed its wealth mainly, if not indeed exclusively, to the advantages which legitimately and illegitimately it drew from the south. They afterwards showed by their conduct how firmly they believed in the truth of their assertion that the entire civilized world was in the power of the cotton planter.[1] This view had sufficient basis in

1 "The northern states, and Europe also, are in the power of the cotton growers of the south. A withdrawal of the cotton of the United States from England would produce an instant and terrible revolution in that island; and to cut off from the northern states of this confederacy their southern trade would destroy their merchants and manufacturers, cause a failure of their banks, and bring about a financial crisis such as they have never experienced; and of which their imagination can scarcely conceive." De Bow, The Industrial Resources of the Southern and Western States, II., p. 314.

facts to be shared by many reflecting men on both sides of the ocean to whom slavery was an abomination. It would, therefore, have been only a matter of surprise if it had not assumed the form of an acknowledged fact, one might almost say, an axiomatic truth, in the eyes of the slave barons, in whom aristocratic prejudice and aristocratic self-confidence had so impaired the faculty of judgment and the capacity for self-knowledge, that, with their own compromising avowals on their lips, they could proclaim with solemn unction, that the south stood at the head of the civilized peoples of all times and all zones.[1]

The moment was most unfortunately chosen for such challenging assertions. In this year the seventh census of the United States was taken, and insufficient and, in part even, unreliable as were its figures, they contained nevertheless an annihilating judgment on the "peculiar institution."

The restoration of the political equilibrium of the two sections demanded by Calhoun, was, as Seward rightly remarked, a catching at shadows because there was no real basis for it to rest upon.[2] Laws and institutions which are in contradiction with real relations and have their origin solely in the desire to check the actual course of events and paralyze its effects, are a monstrosity and are

[1] "I regard it as right to say on this occasion, that whether considered with reference to the physical comfort of the people, or a high state of public and private morals, elevated sense of honor, and of all generous emotions, I have no reason to believe that a higher state of civilization either now exists elsewhere, or has existed at any time in the past, than is presented by the southern states of the Union." Clingman, Jan. 22, 1850, in the House of Representatives. Congr. Globe, 31st Congr., 1st Sess., p. 202.

[2] "What is proposed is a *political* equilibrium. Every political equilibrium requires a *physical* equilibrium to rest upon, and is valueless without it." Works, I., p. 63.

impotent. The entire contest, however, was only a desperate struggle of the south against the actual development of things and its results. Whatever might be the ultimate results for the south, of the naught-deciding decision of the territorial question, it had not thus far lost by the policy of division which had been adopted with the Missouri compromise. The fifteen slave states had an area of 928,894 square miles, while the sixteen free states had but 643,326.[1] Nature had in every respect done more for the south than for the north and the natural increase of population, both white and colored, in the southern states was not less than that in the northern. Nevertheless the population of the free states amounted to 13,342,325, while that of the slave states came to but 9,612,969, while, according to the census of 1790, the difference in favor of the north had amounted only to about 6,000. Still more glaring is the difference in the ratios of the density of population. While in the northern states there were 45.8 inhabitants to a square mile, the southern states had but 18.93. Now even if we entirely overlook the fact, that, of the 9,612,969 inhabitants of the slave states 228,711 were free colored men without political or social influence, and 3,220,284 were slaves who, with regard to representation in the House of Representatives in Congress, counted only as much as 1,932,170 free men, it becomes sufficiently clear from these figures how absurd the claim was that the south should be guaranteed, for all time to come, equal influence with the north on the fate of the Union. The real inequality, however, could not but increase from year to year, because the causes which called it forth continued to operate.

[1] Most of the numbers are not to be found in the census as I have given them, but have been calculated by me from the figures of the census. All figures, however, for which I do not cite other sources rest on the estimate of the census.

The injury done to labor by slavery and the one-sided economic life that it produced in the southern states, frightened away immigration, to which the farmer, miner, and manufacturer were equally invited by the character of the soil. In these states there were to be found only 395,557 persons who were born in foreign counties, while in the free states this class of the population amounted to 1,893,055, of whom 651,801 belonged to New York. Thus, the entire south did not harbor even half as many immigrants as this one state. The same causes which frightened away immigration naturally led to emigration, and the emigrants belonged, if not in the point of wealth, at least in point of active power and desire to improve their condition to the best portion of the population. The inhabitants of the south who had been born in the north numbered but 206,377, while 607,316 sons and daughters of the "sunny south" had gone to the rougher north.[1] Thus the immigration from the northern states and from all the rest of the world did not even suffice to cover the loss which the south suffered through emigration to the free states. Year after year there flowed to the north from without a broad and ever swelling stream of capital, and of labor-forces of every kind which had been raised and trained at the expense of other peoples, while the south, at least as regards labor-forces, continually lost more than it gained.[2] Strange, indeed, must

[1] Of these, 506,918 fell to the middle and western states, a fact which is of consequence in the explanation of the attitude which several of them took for some time on the slavery question.

[2] With regard to cash capital it was surely not the losing party in the exchange, since its wholesale trade was, to a great extent, carried on with northern capital. On the other hand, however, the money earned by the northern capitalists in the south flowed back in a great part to the north. Governor Hammond, of South Carolina, said, 1850: "The process of impoverishment had been visibly and palpably going

have been the state of affairs, if it was true as Clingman averred, that the south, in the point of the material well being of its population, did not need to shun the comparison with any people of the present or past.

A sincere belief in the great wealth of the south was still wide spread because men were unable to free themselves from the delusion that the wealth of a land could be measured simply by the money paid it for its products by other countries. Were this true, the situation of the planter states would have been indeed enviable, for they produced annually more than 2,000,000 bales of cotton and exported thereof—not including the sale to the free states—to the value of sixty or seventy million dollars.[1] In reality the gift with which nature had endowed the land in the monopoly[2] of the culture of this plant that grew more indispensable every year to the whole world, had become the greatest curse.[3] It is true that it held the first place among the elements which, according to the design of nature, should have made the land one of the richest in the world, but slavery had turned the blessing into a

on, step by step, with the decline in the price of cotton. It is well known, that, for the last twenty years, floating capital to the amount of five hundred thousand dollars per annum, on the average, has left this city [Charleston] and gone out of South Carolina, seeking and finding more profitable investments than were to be found here. But our most fatal loss, which exemplifies the decline of our agriculture and the decay of our slave system, has been owing to emigration." Address before the South Carolina Institute.

[1] Very detailed statistical estimates of the cotton earnings and the cotton trade for the period from 1821 to 1850, can be found in De Bow's Industrial Resources of the Southern and Western States, I., pp. 144–149.

[2] The expression is justifiable, although, of course, it must not be taken literally. The south had the word even in its mouth.

[3] De Bow's Commercial Review writes, 1850: "Cotton has been to South Carolina what the mines of Mexico were to Spain." 1st Series, Vol. VIII., p. 138

curse. There were, indeed, rich men in the south, but the country was poor, not only in comparison with what it could and ought to have been, but also in comparison with the north, and it was continually growing poorer because it was consuming its capital.

The entire wealth of the slave states in 1850 was valued at $2,755,411,554, and that of the free states, excluding California, at $3,186,683,924. In the valuation of the south however, slaves are included. If, with Parker, we estimate these at $400 a head, they represent $1,280,164,800 in the total sum, and there remain only $1,475,246,757, considerably less than half of the sum reckoned for the north.[1]

Such figures, can, of course, make no claim to exactness. But however large the errors, the figures are reliable enough to leave no doubt that, in point of material well being the south presented a very sorry spectacle compared with the north. And when all the separate estimates to which for the most part greater reliability can be attributed, point with equal definiteness in the same direction, they are sufficient for the purpose of the historian, however slight their value for the statistician.

If we turn our attention first to agriculture, which predominated in the economic life of the south to as great a degree as is conceivable in a civilized state of our day, and with regard to which, therefore, in view of the value and great adaptability for exportation of the staple products, we might have expected the comparison to result more favorably, we find exactly the same results. The north had 57,705,504 acres, and the south 54,970,427 acres of improved land, but the value of the northern farms was almost double that of the southern—$2,147,218,478, against

[1] Works of Th. Parker, VI., p. 34, Edit. Trübner.

$1,117,649,649. How directly this state of affairs was connected with slavery will be seen by a comparison of the prices of land in the different counties of the border states. In Missouri, for example, the twelve counties bordering on the slaveholding Arkansas had a population of 20,982 whites and 75,360 acres of improved land at an average value of $13 per acre, while the 26,890 whites in the ten counties bordering on the free state, Iowa, with inferior soil, cultivated 123,030 acres with an average value of $19 per acre. We find the same state of affairs in Virginia. In the counties of Monongahela and Preston, bordering on Pennsylvania, the acre was worth $21; in the counties of Patrick and Henry, bordering on North Carolina, only $15. On passing the boundary line in either direction the difference became much greater. In the neighboring counties of North Carolina, Rockingham and Stokes, an acre brought $14, and in the neighboring counties of Pennsylvania, Fayette and Green, $49.[1]

These figures, however, are by no means sufficient to show fully how sad was the contrast between the agriculture of the south and that of the north. Not only was land worth much less there, but the capital employed in land yielded a much poorer return. The delusive notion of the wealth of the south rested solely on the cotton monopoly. And every year the complaints of the planters grew louder that the profits of the cotton culture itself

[1] Similar comparisons are frequently made by Olmstead in his interesting and instructive Works on Travels in the Slave States: "I assert from my own knowledge, that lands of the same quality in the free, are from a hundred to a hundred and fifty per cent. higher in value than in the slave states: in some cases, probably, six hundred per cent. higher! Lands six miles from Cincinnati, in Ohio, I am credibly informed, are worth sixty dollars per acre, whilst in Kentucky the same distance from that city, and of the same quality, they are worth only ten dollars per acre!" The Writings of Cassius Marcellus Clay, p. 178.

were diminishing. It was averred that the lands and slaves of the cotton plantations now yielded a return of only 3 per cent.[1] Others, to be sure, reckoned out some 4½ per cent.[2] And now and then, also, an enthusiast was heard who evolved from his imagination the most fabulous returns.[3] But far louder and more numerous were the voices of those who proclaimed that the cotton planter could scarcely eke out an existence.[4] The universality of the complaints proves that these assertions came nearer the truth than the exaggerations in the opposite direction.[5] The limitation of the production of cotton in order to raise the price was demanded with daily increasing emphasis. One plan drove out another, but the cultivation

[1] De Bow, Commercial Review, 1st Series, Vol. VIII., p. 141.

[2] Governor Hammond in the letter above cited.

[3] "We have shown that cotton planting, at a moderate price for cotton, pays 13 per cent. profit." De Bow, The Industrial Resources of the Southern and Western States, I., p. 164.

[4] "Thus, it appears that it will cost five cents to produce cotton, and if the land is given, clear of rent, and the labor without hire, a judicious economy only could save the manager of such an estate from debt, if he be required to surrender the property to the owner, at the end of the year, in good condition.

"Nearly half the time, in the last ten years, cotton has been sold for the planter on the low lands, for about five cents per pound, which the most superficial observer must see has been ruinous; for it would appear, those immense estates not only pay no interest on the large investments, at those rates, but scarcely do the revenues support the charges of cultivating and sustaining them. It would require an extraordinary coincidence of favorable circumstances, to leave the smallest margin of profit to the planters." Ibid., p. 151.

[5] * * * "It will be perceived that we feel a pressing necessity to respond directly in some tangible form to the cries and lamentations of distress that come up from the teeming fields of the cotton planter * * * Why is it the cry of distress is heard emanating from teeming fields? * * * In the midst of a superabundance of the most valuable commodity in the world, he [the cotton planter] bids fair to beggar himself by the folly of overstocking all his customers." De Bow, Commercial Review, 1st Ser., Vol. I., p. 229. 1846.

of cotton increased, and the cotton cultivators continued their laments. Everyone would gladly have seen his neighbor follow the good advice in order to put a stop to the alleged continual overstocking of the cotton market, but everyone naturally assumed as a matter of course that he himself must devote just as little as possible of his labor-force to the cultivation of corn and vegetables, as long as he had land adapted to the raising of cotton. Many of these almost exclusively agricultural states were obliged, year after year, to import considerable quantities of corn, hay, meat, butter, etc.[1] The north exported what it produced in excess of its own requirements, while the south, on the contrary, lived largely from the export of its staple products, which, moreover, the north took charge of for the most part. Compared by tonnage, the merchant marine of New York, New Jersey, Pennsylvania and the New England states was, in 1846, five times as large as that of all the coast states of the south taken together, and in this regard even the young inland state Ohio completely left behind the old coast state of South Carolina, with its magnificent Bay of Charleston.[2]

[1] See e. g., Ibid., p. 75.

[2] "The foreign trade is almost wholly in the hands of foreigners, or men from the north, and is conducted by their ships. * * * The shipping is mainly owned by the north. Of the Atlantic states seven have no slaves: Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, and New Jersey; in 1846, they, with Pennsylvania, had 2,160,501 tons of shipping. In all the slave states which lie on the seaboard, there are owned but 401,583 tons of shipping. In 1846, the young state of Ohio, two thousand miles from the sea, had 39,917 tons; the state of South Carolina, 32,588. Even Virginia, full of bays and harbors, had 53,441 tons. The single district of the city of New York had 572,522 tons, or 70,939 more than all the southern states united." Works of Theodore Parker, V., pp. 44, 45. Ed. Trübner. In the year 1853, the comparison was still more unfavorable for the south: south, 438,297, north, 3,831,047 tons. Ibid., VI., p. 34.

If such was the aspect in the two directions in which we should have been most justified in looking for a flourishing state of affairs, we cannot be surprised that, in all other regards, the economic condition of the southern states presented a still more gloomy contrast with that of the north. It is true that not only were there already cotton manufactories — especially for spinning — in the south, but many of them had already given proof that the cotton manufacture could be very easily carried on in the southern states so as to be remunerative. At a fair in Pennsylvania the first prize even was assigned to a southern manufactory (Graniteville). But even this branch of industry consisted as yet of such mere beginnings that its

The following table was compiled by the *New Orleans Bulletin*, from the official lists of the treasury:

Free States	1850.	1849.	Americ. Excess.
American tonnage	2,121,100	2,045,609	75,491
Foreign tonnage	1,297,282	1,247,495	
Excess of American tonnage	823,818	798,114	
	798,114		
Decrease of foreign tonnage	25,704		
Increase of American			75,491
Slave States	1850.	1849.	Americ. Decrease.
American tonnage	511,588	718,115	206,527
Foreign tonnage	429,964	438,214	
Excess of American tonnage	81,624	279,901	
		81,624	
Increase of foreign tonnage		198,277	206,527
Free States	1850.	1849.	Increase,
Aggregate tonnage	3,418,382	3,293,104	125,278
Slave States	1850.	1849.	Decrease.
Aggregate tonnage	941,552	1,156,329	214,777

De Bow, The Industrial Resources of the Southern and Western States, III., p. 126.

existence really only served to make the contrast more glaringly conspicuous. Unfortunately I have been unable to find complete statistical estimates for this period, but one can form an approximate idea of the condition of affairs on hearing that in the New England states $42,982,120 were employed in the cotton manufacture against $1,721,000 in the states of Tennessee, Alabama, Georgia, and North Carolina.[1] And apart from this there was really no great industry in the south.[2] If even the chimney of any other manufactory was anywhere to be seen, straightway a great ado was made about it; but it is only rarely that I have come upon any such accounts. Even the trades that most directly concerned daily necessities lay in a pitiable condition. In the complaints that everything had to be obtained either from or through the north, the shoe trade is mentioned with especial bitterness and frequency. In the free states 1,260,442, and in the slave states only 326,150 persons were devoted to large and small manufacturing, to the arts and to mining. The north had 73,618 smiths, the south only 25,312. To the 139,769 joiners of the north the south could oppose but 43,294. Of hat makers, there were only 1,758 in the south against 9,192 in the north. Particularly significant is the fact that there were to be found only 168 manufacturers of agricultural implements in the south against 1,145 in the north. Compared with this, the proportion of machinists—2,243 to 21,779—is almost favorable.

We must not, however, stop with these figures, if we wish to obtain an impression fully corresponding to the

[1] Ibid., I., pp. 233, 236.

[2] According to Parker in 1850, in the south $95,918,842 were employed in manufactures, with an annual return of $167,906,350, and in the north $431,290,351, with an annual return of $845,430,428. Works, VI., p. 34.

sad reality. We must consider not only quantity but also quality. And here, how glaring is the contrast between the fresh, keen, progressive life on the one side, and the aimless indolence on the other. Latterly, even in Europe, it has been remarked how much the excellent patent system, adopted a hundred years ago, has contributed to the astonishing economic development of the United States. In this, however, the southern states took little part. From 1790 to 1849, 16,514 patents had been granted in the free states, and in the slave states only 2,202.[1] And the proportion seemed destined to alter still more to the disadvantage of the south. In the year 1851, it could show only 64 patents against 656 of the north;[2] while as early as 1846, it had 76 against 564, which gave it a patent for every 96,505 persons, and the north a patent for every 17,249 persons. And, if we enter into details, the south, as always, appears in a still more unfavorable light. Little Maryland, which, as we have already shown, belonged really much more to the north than to the south, was in all these comparisons a disproportionally heavy weight in the scale in favor of the south. In it, in 1846, 21 inventions were made; that is, more than a fourth of all the inventions of which the south could boast. On the other hand, citizens of New York had received more than 240 patents; that is, more than three times as many as all the southern states taken together.[3]

When the condition of trade and industry is so pitiable, not much can be expected with regard to means of transportation. The various accounts of the development of railroads in the United States, which have been accessible

[1] Patents granted to foreigners, and in the District of Columbia, are not included.

[2] Th. Parker's Works, VI., p. 35.

[3] Th. Parker's Works, V., p. 39.

to me, do not perfectly agree, but the differences are not great enough to impair the value of the figures as an illustration of the condition of the two sections of the Union. In order to avoid all suspicion of partiality, I will take the figures given by the ardent southern patriot, De Bow. According to the *Commercial Review*, there were, in 1850, in the ten northern Atlantic states[1] 6,838 miles of railroad in operation, and in the six southern Atlantic states, and in Alabama, Louisiana, Arkansas, and Tennessee, with an equal population, only 2,309 miles.[2]

The south had the more reason to be ashamed of this proportion, because, on the same authority, the cost of construction was at least double in the north. The *Commercial Review* estimated that the north had twelve, or, if Texas was included, eighteen times as much railroad per square mile as the south, and that in the north six or eight times as much per head of population was expended on railroads as in the south. And the backwardness of the south in availing itself of this invention, which, with the rapidity of lightning was introducing a new period of development in all civilized life, was not owing to any tardy and insufficient recognition of its importance. South Carolina could boast of having undertaken and completed the first long line—that from Charleston to Hamburg. But the incubus of slavery mocked the exertions of those who fancied that pious wishes and correct perceptions were sufficient to shake it off. Was it not really an almost absurd presumption in railway construction to try

[1] Delaware is here counted with the north.

[2] XI., p. 143. See the table of railway constructions from 1830 to 1847 in Doggett's Railroad Guide for September, 1847, and compare them with the facts in the American Almanac in Niles, LXXV., p. 127, and in the American Railroad Journal, Ibid., p. 192, and Th. Parker's Works, V., p. 45.

to keep pace with the rest of the civilized world, when the thoroughfares provided by nature, the countless broad rivers, still hurried down to the sea in their untamed natural state, so that men of insight at the south complained more and more bitterly that a journey was really an affair of life and death. Railways could not but seem almost an anomaly in a land in which roads were still a rarity which could be traveled on throughout the year without great risk to axles and wheels of the wagons, and to the legs of the horses.[1] Cotton might still be "king," but even the king cannot alone cause a great country to

[1] In an address issued by a "great and enthusiastic" railroad convention at New Orleans in January, 1852, we read: "Dense population, great and growing cities, wealth, power, and influence, and political strength on the one hand—or scattering villages, decayed cities, stagnant life, and comparative poverty and imbecility, are the alternatives which seem to be presented. * * * It is time that we were truly aroused to the urgencies and necessities of the occasion, whilst all the world around us is in motion. The interiors of many of our great states are as difficult, practically, of communication with their commercial cities, or with each other, as they would be were the restraints of separate governments and custom-house collectors interposed between them! Roads for many months of the year almost impassable, and at all times of enormously costly and laborious transit; rivers, with their insecurities and detentions, and frequent and frightful losses, exclude us from intercourse and easy connection with each other, except upon the borders of the very largest rivers. For many months of the year the citizens of Louisville might reach New Orleans by way of New York sooner than by that of the Ohio and the Mississippi! Nashville is at all times as distant and of more hazardous approach to New Orleans than is New York. Little Rock is practically as far from the ocean as if seated at the falls of St. Anthony. But this is not the worst. Whole regions of immense fertility within our limits are shut out entirely and hopelessly from any market whatever, and in not one of our states can the citizens of the interior reach their shipping or commercial points in less time than it would take a citizen of Boston to visit New York, Philadelphia, Baltimore, and Washington, and even in many cases to stop at each of these points, and return to his home." De Bow, The Industrial Resources of the Southern and Western States, II., p. 435.

be covered with a close net of railroads. To be sure, good facilities of intercourse stimulate and create trade; but in a sparsely settled country of such enormous extent, in which so large a portion of the population lie wholly outside of the sphere of civilized life, and are simply human cattle, intercourse can never become so lively as to allow of a comprehensive application of the expensive modern means of intercourse. Even the economy of nature knows little of great streams which are not continually fed by innumerable brooks, and man is still less able to create and maintain such streams. Railway lines between single market centers and staple places might manage to exist, but how could a network of railways, or even a good system of roads be developed in a land which did not even have intercourse enough to pay for its own postal system with a tariff of charges, which in the sister states yielded a considerable excess? In the financial year ending June 30, 1847, the receipts of the postoffice in the north amounted to $1,659,412, and the expenditures came to $1,083,307, leaving a surplus of $571,104; in the south, on the other hand, the expenditures reached the figure of $1,318,511, and the receipts only that of $684,079, a deficit of $654,462, which the north had to cover.[1]

This brings us to the region of the intellectual life and of ideal interests, with regard to which the saying of the "positive good" of slavery appears as a still more monstrous self-deception.

The figures of the census of 1850 are especially unreliable with regard to the particular professions, but the errors in the enumeration were not confined to the south. It seems inconceivable that there were only 264 dealers in books and writing materials in all the southern states, but

[1] Congr. Globe, 31st Congr., 1st Sess., App. p. 412.

it is equally unthinkable that there were only 1,437 in the north, while it is altogether probable that the north had six times as many. According to the census, there were 11,812 printers in the north, and 2,625 in the south. How much more unfavorable the comparison would have been for the latter if the political press had been disregarded on both sides, appears from the fact that the south had only 24 book publishers against the 321 of the north. But even in the matter of the political press the south could not stand the comparison. In the slave states there appeared 469 political papers and journals, with a total issue of 512,502 copies, against 1,161, with an aggregate circulation of 1,395,292 copies in the north. With regard to journals and periodicals designated as "neutral and independent," the proportion—32 to 51—was, as far as numbers went, more favorable to the south, but by no means when the issues were compared—35,281 to 268,441. The same holds true of literary and miscellaneous publications—157 to 411, with an issue of 213,480 copies to 1,478,923. The south had 51 religious organs against the 140 of the north, but the aggregate circulation amounted only to 101,516 against 970,141. At the first glance, it would seem surprising that the proportion with regard to scientific organs was not still more unfavorable—12 to 41, with a circulation of 21,836 to 185,204. But even so excellent a journal as the *Commercial Review* was forced to complain that it could scarcely maintain itself;[1] and on closer inspection, we shall readily comprehend that the comparison could not but become more unfavorable for the south the lower down in the scale one went. And just, in all matters which concerned popular education, does it become more glaringly evident to what extent slavery,

[1] IX., p. 120.

notwithstanding all democratic institutions, had forced the development of the south into the path of aristocracy.

In the highest class of American educational institutions, the colleges, the south, as far as externals were concerned, did not need to shun the comparison. The north had 111 with 879 teachers, 15,094 scholars and a revenue of $924,503; the south 120 with 772 teachers, 12,065 students and a revenue of $992,125. With regard to academies also and other intermediate schools, taking into consideration the difference in population—and of course not including the slaves—it had, again, an advantage over the north, that is, if we regard externals only. On the other hand, if we inquire for public libraries the picture assumes an essentially different aspect. In the north, there were 16,893 with 3,886,617 volumes, and in the south only 722 with 749,798 volumes. Still stronger is the case with regard to the public schools. In the north, there were 62,459 with 70,647 teachers, 2,770,381 pupils and an income of $6,857,527; in the south on the other hand there were only 29,041, with 21,353 teachers, 583,292 pupils and an income of $2,734,003. It is not surprising, therefore, that in the south there were 573,083 free men over 20 years of age who could neither read nor write, while the north with more than double of this class of population had only 480,337, of whom a large part belonged to the immigrants; and in the south the million slaves, with very few exceptions, had still to be added to the number of the wholly uneducated.

The south, it is true, protested against including the slaves in these comparisons; they were to count only as property. But even disregarding them entirely, the state of affairs was fearful enough, and out of the mouths of its own great men could it be proved against the south that slavery bore the guilt of this. They complained that

the small farmers who owned no slaves were able to acquire only the poorest land, and the hopelessness of ever working up out of their poverty caused them to rest content with their superiority to the negro, while, in reality, they were sinking almost to the stage of civilization of the Indian.[1] Now, was it surprising that such people were little importuned by their consciences when they allowed their children to grow up like cattle in their weather-beaten huts amid dirt and rags, though it would not have cost a cent to send them to school?[2] What wonder that

[1] "In the more southern portion of this region [the southwest] the non-slaveholders possess, generally, but very small means, and the land which they possess is almost universally poor, and so sterile that a scanty subsistence is all that can be derived from its cultivation, and the more fertile soil being in the possession of the slaveholder, must ever remain out of the power of those who have none. * * * The acquisition of a respectable position in the scale of wealth appears so difficult that they decline the hopeless pursuit, and many of them settle down into habits of idleness, and become the almost passive subjects of all its consequences. And I lament to say that I have observed of late years that an evident deterioration is taking place in this part of the population, the younger portion of it being less educated, less industrious, and in every point of view less respectable than their ancestors." De Bow, Commercial Review, III., p. 188.

"So long as these poor, but industrious (?) people, could see no mode of living, except by a degrading operation of work with the negro upon the plantation, they were content to endure life in its most discouraging forms, satisfied that they were above the slave, though faring often worse than he." Ibid., VIII., p. 25.

"It is indeed painful to be brought in contact with such ignorance and degradation * * * this class of our population, now but little elevated above the Indian of the forest." Ibid., VIII., p. 139.

[2] William Gregg, of South Carolina, says: "The appropriation annually made by our Legislature for our school fund, every one must be aware, so far as the country is concerned, has been little better than a waste of money, and all efforts to adopt a more successful system have failed; and while we are aware that the northern and eastern states find no difficulty in educating their poor, we are nearly ready to despair of success in the matter, for even penal laws against the neglect of education would fail to bring many of our country people to

every generation widened the gulf that yawned between these miserable beings and the rest of the civilized world! A city proletariat, and particularly the proletariat of *great* cities, is an almost inevitable evil, but a country proletariat counted by thousands in a land which could support in comfort millions on millions with moderate work, is in our day an almost incomprehensible enormity, and if both the rural and city proletariat are in a high degree aristocratic, while the institutions are democratic, this is evidence of an absolutely intolerable state of affairs; in one way or another a radical revolution must be accomplished unless the country is a solitary island in the ocean on which the people closed to all influences from the outer world can continue to vegetate in a process of never ending decay.

The most significant thing of all was, not that the south in absolutely every respect stood so far behind the north, but that the forces which had caused it to remain so far in the rear still continue to operate, and that it would therefore necessarily fall still further behind. It was not the actual relations but the tendencies of their development on all departments of life, that made a thorough revolution, however it might be brought about, only a question of time.

De Bow rightly called it a delusion to expect that the north would "respect" the rights of the south, that is, would continue to yield to the demands of the slavocracy, if this inequality in all that constitutes the power and

send their children to school, notwithstanding it could be done without a cent of expense. * * * Any man who is an observer of things, could hardly pass through our country without being struck with the fact, that all the capital, enterprise and intelligence is employed in directing slave labor, and the consequence is, that a large portion of our poor white people are wholly neglected, and are suffered to while away an existence in a state but one step in advance of the Indian of the forest." Ibid., XI., p. 135.

greatness of a people was allowed to increase.[1] Apart from all else the north could not but finally perceive the absurdity of continually putting new supports under a system which was injuring so seriously the economic development of the country. Even the most thoughtless and those most fond of peace could not but be puzzled after a time when complaints came from the south, that even those of its few great cities whose situation seemed to guarantee them a great development in defiance of all indolence or harmful institutions, were either not progressing, or like the crab, were going backwards. Mobile for many years resembled an empty lamp whose flame is nourished only by the oil that the wick has absorbed.[2] A change for the better did not begin to appear before the establishment of railway communications had been undertaken in earnest. New Orleans, the queen of the cities of the south, complained that it had no independent trade.[3] It admitted that it suffered severely from its

[1] "We look on and admire the growth of this tremendous power there [in the north], scarcely admitting any excellence in ourselves or willing to make an effort to secure such excellence. Yet we expect to be respected in our rights, and deferentially bowed to by the rulers of the north! Vain hope, if history be credited. Let the scepter depart from Judah, and his brethren will not long desire the pretext to trample upon his inheritance." Ibid., XI., p. 120.

[2] "The assessment rolls of real and personal estate, published by authority, show that the total value of property, which from 1836 to 1837 had averaged $20,000,000, had declined in 1847–48 and '49 to $12,000,000. The result was on all sides evidences of general decay. Rents fell, business declined, and emigration commenced its inroads. The glory of Mobile had departed." The Industrial Resources of the Southern and Western States, II., p. 439.

[3] In a report of a speech of James Robb, before the railway convention at New Orleans in 1851, we read: "Mr. Robb then referred to another great want of New Orleans—it was the want of an external commerce. By external commerce he meant that which was conducted by ships owned here, and plying between this and foreign

rivals rising on every side,[1] and that its export trade was visibly disappearing.[2] Proud South Carolina presented a truly pitiable spectacle, if its condition was viewed in the light of the development of the north. From 1800 to 1827 the yearly average of the entry dues collected in the state amounted to $928,951, and in the next seventeen years, from 1828 to 1844, the yearly average fell to $467,993.[3] In Charleston, names and faces altered as the years went by, but the number of the population remained the same, and the entire aspect of the city would not have changed, had not two great conflagrations laid

ports, and exchanging the produce of our valley for articles of foreign production, needed by our people. Save a small trade both with Mexico and Texas, we are entirely destitute of this commerce." Commercial Review, XI., p. 78.

[1] "New Orleans, which was once the proud emporium and mart of the immense empire of the west, sees her trade taken away by piecemeal, by a host of sleepless rivals, until her rank is fast passing away from her, and the grass threatens to grow again on her once crowded thoroughfares." The Industrial Resources of the Southern and Western States, II., p. 453.

[2] "It is true that the quantity of produce coming to New Orleans in search of a market, has fallen off; and, consequently, the number of vessels arriving and departing, has decreased. This is what has alarmed and justly alarmed, the people of New Orleans." Ibid., III., p. 14.

[3] Commercial Review, II., p. 414: "In 1844, R. F. W. Allston held the following language to the Secretary of the Treasury: 'The average annual imports of the state for ten years, from 1832 to 1842, were $2,289,463; average annual exports for the same time, $10,291,735. The average annual imports for two years, 1843 and 1844, were $1,213,112; average annual exports same time, $7,597,045. In the year 1800 the produce of the state was exported from her own ports, at which were also received the return cargoes which paid for it. Then trade was brisk. All the interests of the state flourished in a high degree. Then the imports at the port of Charleston yielded a revenue of $2,203,812; now the duties collected at the same port are $158,405.'" The Industrial Resources of the Southern and Western States, I., p. 244.

many of the old houses in ashes. Only its aristocratic character was developed in an astounding way! Steam, which with titanic power was metamorphosing the forms of human life, was on account of its plebeian following of smoke, coal dust, and noise, forbidden the entrance to this selectest circle of the slave barons.[1]

The south had previously cast the blame for this miserable economic condition solely on the federal legislation. Now, too, it pronounced this legislation partisan and uncon-

[1] "That we are behind the age in agriculture, the mechanic arts, industry and enterprise, is apparent to all who pass through our state; our good city of Charleston speaks a language on this subject not to be mistaken; she has lost 1,000 of her population, according to the census of 1840, while her sister cities have doubled and quadrupled theirs; she has had, for thirteen years, the advantage of the South Carolina Railroad, which, under ordinary circumstances, should have doubled the number of her population. How does she now stand? Precisely where she stood twenty years ago, and, but for the two conflagrations which swept off many of her old houses, she would present at this moment the same appearance that she did in 1824. Where is the city in this age of improvement, except Charleston, that a bookbinder or job-printer is prohibited the use of a small steam-engine, to enable him to carry on his business with more facility, and to cheapen the price of those articles that we are purchasing from other cities more liberal to their artisans? and where a carpenter is not allowed the use of the same, to turn a circular saw or drive a mortising chisel, to enable him to compete with others to supply us with ready-made doors, blinds, sashes, shutters, etc.? * * * The labor of negroes and blind horses can never supply the place of steam, and this power is withheld lest the smoke of an engine should disturb the delicate nerves of an agriculturist; or the noise of the mechanic's hammer should break in upon the slumber of a real estate holder, or importing merchant, while he is indulging in fanciful dreams, or building on paper the queen city of the south—the paragon of the age." Commercial Review, VIII., p. 140.

"It would scarcely be believed in any other country, were we to tell the story, that we have not such a thing as a hatter's shop in the good city of Charleston, * * * neither is there one in Columbia; and we believe it would be difficult to find one in the state of South Carolina." Ibid., XI., p. 137.

stitutional, but its most sharp-sighted men no longer failed to see that the south itself was primarily responsible therefor, and they had the courage to say so without reserve. For many years back conventions had been held, now here now there, in which the various sides of economic life had been discussed. In these conventions, denunciations of legislation played only a secondary part; the speeches and reports were chiefly devoted to setting forth what the south might have done, ought to have done, but had not done. To be sure, it was always said that they were at last aroused, and that they would begin a new chapter of their economic history, but when they assembled again at the end of the year, they were always obliged to begin with the avowal that their hopes had once more been completely deceived, and that, after as before, everything went loitering on with thoughtless, incomprehensible, and criminal negligence.[1]

The greatest emphasis was rightly laid on the one-sidedness of their economy, and it was demanded that the south should, above all things, in the future supply its own demand for the necessaries of life.[2] Furthermore,

[1] "It is the misfortune with us, that when we have been aroused in the past, it has been by paroxysms, and never followed by sustained efforts. We have come together in convention, but when the convention adjourned, there was the end of it. Nobody had power to act in the recess. The thing soon passed out of mind. Thus was it with the commercial convention of Augusta, of Macon, and Charleston—the railroad meetings of Memphis and St. Louis; and thus will it be with those the other day of Richmond and Macon; and thus will it be with ours, unless we take some measures to prevent it." De Bow's speech in the railroad convention at Jackson, Miss., January, 1852. The Industrial Resources of the Southern and Western States, III., p. 82.

[2] The *Quincy Times* writes: "The truth is, the south has been kept poor by unthriftiness, by concentrating her whole energies upon one branch of industry—the production of cotton. * * * The only effectual relief of the southern planter is, to enter upon a system for

direct importation was required—and especially the introduction of great manufacturers, first and foremost, of course, the manufacture of cotton. It was shown by individual examples how easily they could secure to themselves the advantages they now allowed to be diverted to the importers of New York, and that the application of slave labor even to manufacturers had been successfully tried,[1] but, in spite of all admonitions, these examples

the production of all the necessaries at home. In the article of breadstuffs, of flour alone—the people of the southern states are still tributary to the north in vast amounts. And there is no need of this; the southern soil grows wheat of the finest quality; southern industry, if properly directed, can convert it into the finest flour." Niles, LXXV., p. 62.

[1] In this connection, it is true, the strangest theories were often developed. One example may serve to show how much the capacity for thought in certain directions had suffered by the effects of slavery. "They [the people of Great Britain] foresee that if slave labor should be directed to manufacturing, that our cotton crop would no longer be sent to their mills; and if they should still continue to control the crops of other countries, they could not compete with the slave labor of the southwest; for we could undersell (sic) them in every market in the world, not excepting their home market. * * * I have frequently heard it said that manufacturers could not succeed in this country, owing to the high price of labor. A female operative in New England cotton factories, receives from ten to twelve dollars per month. This is more than a female slave generally hires for in the south west. But without entering into a comparison of the present nominal price of labor in this and other countries, it is sufficient to say, that whatever the price may be, none can produce any given article as cheap with hired labor as he who owns it himself. In the latter case the labor is so much capital in hand, and it is not so much a question with the owner whether he can produce a yard of cloth, or any other given article, as low as it can be produced in England or in Massachusetts, but whether by applying his labor to the production of the cloth, or other article, he can make it more profitable than he can by using it in agriculture. It matters nothing to him how low others can produce the article, he can produce it lower still, as long as it is the best use that he can make of his labor, and so long as his labor is worth keeping." The writer prudently avoids raising the question

were never imitated to any considerable extent. The trouble, therefore, evidently lay deeper. The one-sidedness of their economy could not be itself the original cause of the evil, but only a result of that cause.

Complexity of economic life undoubtedly has a stimulating effect upon the development of its various sides, but economical one-sidedness does not necessarily bring with it utter insufficiency in the one branch of activity to which the nation is almost exclusively devoted. But according to the unanimous testimony of the most competent judges in the south itself, the manner in which agriculture was carried on was a burning and crying shame. And this held good, not only of the grain and vegetable culture, but more especially of the culture of the very staple product which, directly or indirectly, was the dominating factor in the entire life of the south.[1] There was enough

whether, under such circumstances, that would be the case. "It is upon this principle that the southwest is destined to monopolize the manufacture of the whole cotton crop of the United States." Commercial Review, III., pp. 194, 196.

[1] To the numerous passages in confirmation of this which have already been given in different parts of this work, I may be allowed to add the two following: "In Louisiana, whose resources and progress have been extraordinary, it is scarcely credible how little interest has been taken in the subject of scientific agriculture. Accounts on all hands are agreed that, until within a few years, the rudest systems of tillage were in use, and the most wasteful. Even now it is difficult to convince the planters, as a body, that they have anything to do out of the usual routine." Commercial Review, IV., p. 421.

* * * "Most [cotton] planters plant all their open land every year. We lack twenty-five per cent. of having enough land open, and plant twenty-five per cent. too much of the land we have open. What is called over-cropping is a very common fault with the cotton planters, and results in great disadvantages; a less quantity of land cultivated better, will produce a greater amount of cotton. And, moreover, the same number of bales of cotton, on a less number of acres of land, requires less labor in picking. And the picking of cotton being more than one-third of the whole labor requisite to produce it, this is a very

talking and writing done against the evil, but so utterly ineffectual was it,[1] that at last the responsibility was again thrown upon legislation, only this time it was no longer the sins of commission of the federal government, but the sins of omission of their own state Legislatures, to which the guilt was attributed.[2]

The eternal refrain of all their laments, and of all their encouragements, that the south needed only to will it, in order to become a blooming, rich land, was in a certain sense true enough. But all complaints, all representations, all proofs, all brilliant pictures of the future, proved ineffectual to rouse the south to energetic resolution. This sentence was only an affirmative formula for the continual complaint that the south had no enterprise.[3] But that it had no enterprise, and could not be stirred up to energetic will, was the legitimate and inevitable consequence of slavery.

The largest and best part of its intellectual force was employed in politics, and employed in such a way that its lying fallow would have seemed in comparison a great

important consideration. It is a very uncommon thing to see a crop cultivated well, throughout the season. Nine-tenths of the cotton crops suffer for the plow and hoe during three-fourths of the growing season." Ibid., III., p. 5.

[1] "It must be owned, that neither our agricultural societies, nor our agricultural essays, have effected anything worth speaking of." Ibid., VII., p. 503.

[2] * * * "We cannot permit the fact to pass unnoticed, the reproachful fact—the total want of legislative encouragement of agricultural interests by state endowments. Hence [!] the mortifying disparity in the march of improvement between the north and the south, exhibited in the increase and development of their internal resources." Ibid., I., p. 228.

[3] "We do not want capital, but most sadly want enterprise, which God we implore will give to our children, should it so happen, that we are irreclaimable, or past all hope." Ibid., II., p. 407.

blessing.[1] From year to year, slavery became more and more exclusively the determining element in the policy of southern statesmen, and the more keen this policy became to guard the "rights," and to further the interests of the slaveholders, the more did it sow with full hands dissension between the north and the south, and the deeper root it allowed the evils from which the south was suffering to take.

The most intelligent and best informed people of the south, who did not, as is often said in the United States, live solely by their wits, but who formed the dominating element of the productive classes were mostly slave barons. Therefore, in its economic life there was necessarily a lack of the one thing which is the first condition of a satisfactory state of affairs, and of progressive development: thought. This was the deepest root of all the evil. It was the direct consequence of slavery, and could, therefore, disappear only with slavery. The great planters thought far too little, because they did not feel directly the evil consequences of their own indolence, and whatever thinking power they did devote to their economic interests was exhausted in the very elementary task of keeping in motion their innumerable human labor machines. Where, however, the upper portion of the productive classes drag aimlessly along in the worn out grooves, great activity can never prevail among the humbler people, and here they could not fail to be especially inclined to vegetate without thought, partly because it was too hard to climb the upper

[1] "It would indeed be well for us, if we were not so refined in politics—if the talent, which has been, for years past, and is now engaged in embittering our indolent people against their industrious neighbors of the north, had been with the same zeal engaged in promoting domestic industry and the encouragement of the mechanical arts." Ibid., VIII., p. 134.

rounds of the ladder, and partly because even the utmost intellectual and economic degradation could not take from them their belonging to the aristocracy. And the slaves did not think at all, because they were not encouraged to think, and because they had no interest in performing their tasks thoughtfully.[1] This, however, could not be changed, because it was not allowed to be changed.

We have already pointed out that the center of gravity of the slave system was continually moving towards the southwest, because the planters were tempted to exchange the fields of their fathers, deteriorating more and more under the exhausting system of cultivation continued from year to year, for the virgin soil of the new states. And we have further seen with what keen anxiety they watched the slow but irresistible development in the northern slave states, which was preparing the way for the knowledge that slaves were a very costly luxury, which it was neces-

[1] "It should also be borne in mind, that the people of slave states are always the last, or generally so, in adopting those improvements necessary to facilitate commerce and cheapen transportation from the point of production to the point of sale or market. * * * In the free states, every man has personally to superintend the getting of his produce to market. This awakens his thinking powers, and the obstacles he has to overcome in wagoning his property, [as he is himself generally the wagoner], stimulates into successful existence, first, turnpike roads; secondly, canals; thirdly, clearing out rivers and streams, and lastly, railroads. Now, on the other hand, the slave, and not the master, is the driver of the wagon; and so he gets along, but little matter how long, how troublesome, difficult, or laborious, the negro only sees and feels all this inconvenience, and the master is the last person to be aroused to make any improvement in his means of getting his produce to market; and, consequently, slave states, in matters of internal improvement, are never leaders.

"But beside this, with a man owning a hundred slaves, there is but one mind to think; whereas, in the free states, the same number of persons would constitute one hundred and one thinkers and actors; and, it is impossible to contend against intellectual power, and its influence in such matters." Ibid., III., p. 43.

sary to try to get rid of.[1] Here and there voices were heard calling attention to the danger of too dense an accumulation of the slave population. M. F. Maury believed that this must at last inevitably lead to a horrible conflict of races, unless a "safety valve" should be opened in time, and he designated the valley of the Amazon as the channel into which the excess of the slave population would have to be directed.[2] Others, on the contrary, saw the chief danger in the prospect that white immigrants would move into the vacancies left by the planters and their slaves, and entirely alienate the northern slave states from the slaveholding interest by driving out the slaves altogether.[3] This sentence was the first step into a

[1] "As the lands become more and more exhausted in the older and more northern parts of the slaveholding districts, slave labor will become less and less valuable; it will, therefore, press south and southwest, and their places will be filled by white laborers, thus insensibly narrowing the limits of the slave district, until the whole of this population will be crowded into a comparatively small area in the extreme south. This result of all others should be avoided if possible by the slaveholders, for it would in every way tend to lessen the value of their property, and would sooner or later verify the prediction of the eccentric statesman of Roanoke, that, instead of the slave running away from the master, the master would run away from his slaves." Ibid., III., p. 213.

[2] The Industrial Resources of the Southern and Western States, III., p. 13.

[3] "As the country fills up with a more crowded population in the non-slaveholding states, free labor by degrees will press upon the northern limits of the slaveholding states, and gain a footing within its borders. This will be a different race from the southern non-slaveholder; these will be people who are inured to habits of industry and enterprise; they will bring the means to purchase the worn out fields, and they will go to work to restore them to fertililty by their own industry and skill; they will not use slave labor, and all the lands thus purchased and occupied will be so much taken from the occupation of slaves, for it may be safely assumed that when the slaves have once progressed south, they will never return to the north again." Commercial Review, III., p. 213.

labyrinth of contradictions, from which there was no egress, because all the contradictions were logical consequences of slavery.

While, for the reason assigned, they dreaded the white immigration, they complained bitterly that the north had hitherto monopolized the blessings of immigration, and sighed for it as for the only means of introducing a fresh, new spirit into the entire life of the south.[1] Others there were who were not less convinced of the necessity of rousing a new spirit in the south, and who were also of the opinion that the reform must be placed on the broadest possible basis; but they resisted its introduction from without by means of elements which would be hostile to the institutions of the south. By the introduction of industries which were to help the farmer to prosperity by placing a consumer at his side, and one from which the economic emancipation of the south from the north might be expected — by these means they hoped to transform even the most degraded portion of the native white population into an active, well-to-do laboring class.[2] But if

[1] "Our slave population is every day increasing upon us in greater ratio than the white, and it is only by some system that will encourage the emigration of a white population to us that we can hope to keep up the equilibrium of the two races.

"We have seen that this manufacturing system will induce emigration to us; that it will add both to our commercial and political power, and above all, it will enable us to defend successfully those rights guaranteed to us by the constitution; and if the evil day should ever come when the south shall be satisfied that she cannot remain in the Union upon equal terms, or with safety to her institutions, it will place her in a condition to maintain her separate nationality." The Industrial Resources of the Southern and Western States, II., p. 127.

[2] "The benefits to be derived by the non-slaveholding part of the population [from the introduction of manufactures] would perhaps be of more importance than any other. By opening to them a profitable employment you give them the means of procuring wealth and moral respectability, and thereby raise up in the heart of the country a pop-

they had succeeded in thus elevating the small farmers, and in effecting so radical a transformation of the "white trash," in what respect would these classes then have differed from the immigrants from the northern states, or from Europe? If it was necessary to keep the latter anxiously at a distance because they undermined the very foundations of the economic system of slavery, the same would have held good of the former after the change. The process would only have been a little retarded, since the natives would have had first to rid themselves of their inherited and acquired views concerning slavery, while the immigrants, for the most part, would have come with "prejudices" against the institution; but the final result would have necessarily been the same, since it is intelligent self-interest that makes such a laboring population the deadly enemy of slavery, and economic laws which are wholly independent of the personal views of the individuals concerned, make it simply impossible for slave labor to compete successfully with such a laboring population. As citizens and as planters, then, the aristocrats of the south could not, indeed, but wish to raise the masses of the whites from their intellectual and economic degradation, but the change was impossible, not only because the degeneracy of the masses was the natural result of slavery, but also because the interests of the aristocracy as slaveholders unconditionally forbade their attempting it. But if the interests of the slavocracy actually forbade the transformation of the masses of the white population into intelligent and well-to-do laborers and farmers, it was evidently as Governor Hammond, of South Carolina,

ulation which will be the pride and boast of the nation. Instead of emigrating out of your borders, they will remain the physical and moral bulwark of southern institutions." Commercial Review, III., p. 108

pointed out, suicidal for the slavocracy to attempt, to any great extent to educate the slaves into laborers of a higher class.[1] In the modern civilized world utter degradation of the slave is a condition precedent of the maintenance of slavery. We need not, therefore, be surprised that the man who, in every respect, most profoundly understood the nature of slavery, was altogether opposed to the great projects of the southern patriots, who clung to the idle dream of a radical, economic reform of the south by the construction of manufactories. Calhoun refused to listen to the introduction of great manufactories, no matter where the laborers might be sought.[2]

Thus, Calhoun's thought led him to a knowledge of the necessity of adopting as the guiding principle of the policy of the slavocracy that to which the course of events always led despite all the efforts of the reformers, the *stare super antiquas vias*. The south felt the necessity of keeping pace with the progress of the world's civilization,

[1] "While, in their appropriate sphere, the cultivation of our great staples, under a hot sun and arid miasma that prostrates the white man, our negro slaves admit of no substitute, and may defy all competition, it is seriously doubted whether their extensive and permanent employment in manufactures and mechanic arts is consistent with safe and sound policy. Whenever a slave is made a mechanic, he is more than half freed, and soon becomes, as we too well know, and all history attests, with rare exceptions, the most corrupt and turbulent of his class. Wherever slavery has decayed, the first step in the progress of emancipation has been the elevation of the slaves to the rank of artisans and soldiers." The Industrial Resources of the Southern and Western States, III., p. 34.

[2] "We regret to learn that Mr. Calhoun and his school do not favor the establishment of manufacturing establishments at the south." Annual Report of the American and Foreign Anti-Slavery Society, May 8, 1849, p. 48. The *State Banner*, Columbia, S. C., writes: "We regard every factory establishment at the south as a fatal blow struck at free trade, and if this is not also a covert blow at the institution of slavery itself, we shall be agreeably disappointed." Ibid., p. 49.

but the leaden weight of slavery held her as under a ban. She clung convulsively to the wheel of time as it swept more swiftly on with resistless revolution, and flattered herself with the pleasing dream that she was soon to pass the north and all other civilized nations; yet, at the same time, she resisted progress with all her power, because every movement passed on over slavery with crushing weight. She had been obliged to strain every nerve to win once more from the north a doubtful political victory, a victory which had not strengthened the slavocracy, but had only thrown obstacles in the way of the progress of freedom. She saw the north, like the giant in the fable, filled with fresh strength at every contact with the earth, while her own flesh shrivelled on her bones and her sinews relaxed. Yet this aristocracy, so arrogant in its upper classes, so brutalized in its lowest, was no intellectually and morally exhausted race. The blood shot warm and in strong pulsations through its veins. Its last struggle against destiny might, and would necessarily, reveal a fearful energy, but its cure and regeneration were simply impossible, for the cure could not be begun till it had ceased to be what it was. The arteries had to be cut that the stream of life blood might wash away the poison. Till then every manifestation of its vitality served only to intensify the venom, and let it eat deeper into the entire structure, because through all classes of the population and through all the relations of life at the south a conflict raged which could not be allayed.

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